



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

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MEMORANDUM

DATE: **APR 5 1995**

SUBJECT: Transmittal of Final Report

FROM: Linda M. Murphy, Chair *Linda M. Murphy* (sm)

TO: Mary D. Nichols, Assistant Administrator  
Office of Air and Radiation

I am pleased to transmit the final report of the SIP Improvement Workgroup. This report recommends ways not only to streamline the SIP review process, but also to make SIPs more understandable and useful to our customers.

Several issues warrant mention. First, contrary to popular belief, the resources devoted to SIP processing cannot be dramatically reduced as a result of streamlining because: (1) the SIP workload is increasing over time as a result of the 1990 CAA; and (2) a significant SIP backlog currently exists. As a Workgroup, we believe that streamlining will enable the Regions to process SIPs more efficiently and thus address a greater number of SIPs with no increase in resources. However, several Regional Counsels do not share this belief and are concerned about the added burden for their offices.

Second, strong SIPs are essential for progress towards attainment, are the foundation for a credible enforcement program, and provide the regulatory clarity necessary for market-based and voluntary approaches. As an Agency, we must place more value on this work and more support for the people who do it.

Third, there are many data improvements recommended in this report which can be accomplished regardless of final SIP streamlining decisions. We recommend that these be implemented now. We further recommend that the Phase II data recommendations, which will help ensure national policy consistency, also be implemented when and if SIP decision-making is delegated to the Regions.

As you requested during our recent briefing, the Workgroup has prepared an implementation plan to assist your office if you decide to move forward with the recommendations in this report. This implementation plan was reviewed by all the



Regional Counsel and Regional program offices, as well as appropriate Headquarters offices. See Attachment 14 at page 69.

The Workgroup appreciates your support of our efforts; we look forward to your final decision on this matter. Although the Workgroup has formally disbanded, Glenn Hanson has agreed to assist the Regions in implementing your decisions. Also, the Air Division Directors have agreed that the Sublead Region for SIP Policy (currently Region X) will be available to help with any further follow-up you may need.

It was a privilege to work with such a professional group of people on this report. If you have any questions, please do not hesitate to call me at 617-573-5700 or Glenn Hanson at 215-597-6723.

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## SIP IMPROVEMENT WORKGROUP MEMBERS

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## **EXECUTIVE SUMMARY**

Based upon recommendations made at the April, 1994 Regional Air Division Directors meeting in St. Louis, MO, a SIP Improvement Workgroup was established to examine EPA's procedures for promulgation of State Implementation Plans (SIPs) and to recommend improvements. The Workgroup examined ways to simplify and streamline the SIP review, content and documentation procedures in order to make SIPs more useful and understandable. The SIP Improvement Workgroup was specifically charged to:

- Examine the current SIP backlog and devise procedures to eliminate it and prevent its reoccurrence; and
- Recommend changes to maximize regional authority, while assuring clear accountability and adequate national consistency necessary for program integrity.

The **SIP Improvement Workgroup** is comprised of a **Steering Team** and four committees: **SIP Backlog, Options, Consistency and Data.**

**Steering Team:** The steering team is comprised of the co-chairs of the 4 committees listed below, the report editors, and the OIG representative. The steering team provides overall guidance to the workgroup in completing its mission. The steering team insures that committee work progresses on schedule and that the various committees properly integrate their work products. The steering team also provides advice to the workgroup at critical decision-making junctures, and seeks input and support from higher level management where appropriate.

**Responsibility of Co-chairs:** Co-chairs define the workplans for their committees, provide guidance to committee members, set up and conduct necessary conference calls, review work products and coordinate as necessary with other committees. Co-chairs participate in biweekly conference calls of the steering team.

**SIP Backlog Committee:** This committee is responsible for defining the extent of the SIP backlog, analyzing the causes of the backlog and recommending means to reduce it.

**Data Committee:** This committee is responsible for reviewing the current SIPTRAX data system, analyzing the needs of the customers of this data, and recommending improvements. This committee will also quantify the FTE savings associated with each option. In addition, this committee will recommend administrative improvements that will enable the contents of SIPs to be more easily identifiable by and accessible to users.

**Consistency Committee:** This committee will examine the need for national consistency in SIP decision-making and record-keeping, and recommend procedures to achieve the desired level of consistency under each of the options which are developed.

**Options Committee:** This committee will examine SIP improvement options which simplify the review process and maximize regional authority. This committee may, as a result, recommend changes in SIP review procedures. This committee will examine ways to make SIPs more understandable for internal, state and public customers without jeopardizing federal enforceability.

**Report Editors:** The editors are responsible for defining the contents of the final report to Mary Nichols, for collecting input from the other committees and regional contacts for inclusion in the report, and for producing/editing this report.

**Regional Contacts:** Regional contacts are responsible for collecting regional data as required by the other committees, for writing sections of the report pertaining to their respective Regions, for keeping the Regional Counsel and Air Division Director informed and for seeking their input on important workgroup decisions.

## **BACKLOG COMMITTEE**

### **Charge**

The Backlog Committee was charged with:

1. examining the current SIP backlog, and
2. devising procedures to eliminate it and prevent its reoccurrence.

### **Procedure**

The Backlog Committee divided the SIP inventory as of September 1, 1994 into two categories:

1. SIPs submitted to meet the requirements of the 1990 Clean Air Act Amendments, and
2. All other SIPs.

### **Findings**

- EPA has not clearly defined the term "SIP Backlog."
- There is a total backlog of 675 SIP elements:  
398 are 1990 Amendments elements and 277 are all other SIP elements.
- EPA has focused on processing SIPs submitted in response to the 1990 Amendments.
- The responsibility for the backlog is shared with the Regional offices, Headquarters, and the States.
- The 1990 Amendments of the Clean Air Act still require a large number of SIP submittals that the Regions have not received. These submittals will constitute a significant work load for the next several years.
- The SIP Backlog in California presents a unique situation for the "all other SIP elements" category of SIPs submitted prior to the 1990 Amendments and distorts the statistics of the size of the backlog.

### **Recommendations**

- EPA needs to use clear, common definitions and terms in speaking to the public about SIPs.
- The "inactive" category for SIP submittals should be used for those SIP elements that are not required and that serve little or no benefit for improving air quality. Regional offices should more extensively use this category, in consultation with the states.
- EPA should more extensively use innovative SIP processing approaches, such as letter notices and SIP flexibility, to address the existing backlog and prevent future growth of the backlog.
- Procedures for processing SIPs using interim guidance/policy developed before EPA can develop final regulations need to be improved. A clear understanding needs to be developed between Headquarters and the Regions on what issues are of national importance and what issues can be decided by the Regions.

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- Improvements are needed:
  - to retain SIP processing staff in the Regional offices;
  - to minimize staff turnover; and
  - to reengineer and streamline the process to minimize the disruptive effects of turnover.

## OPTIONS COMMITTEE

### Charge

The Options Committee was charged with examining:

1. "SIP Processing"-- finding ways to simplify the review process and maximize regional authority, and
2. "SIP content"-- finding ways to make SIPs more understandable for internal, state and public customers without jeopardizing federal enforceability.

### SIP Processing Findings

- The regional offices should have maximum control over processing SIPs; the Regional Administrator should be the signatory on all SIP packages.
- Any issues should be resolved as early in the process as possible during the review of a draft or formal SIP submittal.
- Regions should affirmatively determine SIP completeness and should process SIPs within 12 months of completeness determination.
- EPA should issue guidance and regulations necessary for reviewing SIPs sufficiently ahead of time; Regions and States should rely on those documents for producing and reviewing SIPs.
- Regional Counsel review of SIP submittals and SIP packages and draft SIP submittals should be increased; Regional Counsel resources to perform this review should be increased.

### SIP Processing Recommendations

- The SIP Tables should be abolished; but Headquarters should retain a review period for SIP packages that contain alternative interpretations to EPA policies or for which EPA has received significant adverse comments on the proposed rulemaking.
- New or revised boilerplate should be developed by Headquarters for numerous categories of SIPs. Regional offices should use the boilerplate in developing SIP packages.
- Headquarters should develop checklists for reviewing all categories of SIP packages, as well as clear and timely guidance and regulations.
- Centralized computer data bases should be set up in each Region (or nationally) to contain all SIP boilerplate and guidance.
- A centralized processing fund should be established for printing SIP Federal Register notices.
- EPA should work with states on their regulations as early as possible and develop processes for review of draft regulations.
- To the extent legally feasible, EPA should review and revise EPA policy to allow grandfathering state regulations, if EPA has worked with a state to develop a regulation that later appears problematic because of a revised policy interpretation.

- EPA should establish a system for prioritizing SIPs.
- EPA should establish an annual SIP processing training course, and should dedicate travel funds to assure Regional attendance.
- Regions should enhance the status and job satisfaction of staff assigned to SIP review through greater empowerment, variety of assignments and enhanced reward systems."

#### **SIP Content Findings**

- 40 CFR (Code of Federal Regulations) Part 52 is the basic reference for the approved SIP.
- The "customers" include the regulated community, public interest groups, the state and local agencies, the public at-large, and EPA's own staff.
- Some of the IBR (Incorporation by Reference) material is not very specific and makes it almost impossible for the average reader to ascertain exactly what action EPA took in past years.
- Much of the nonregulative material in SIPs is no longer relevant and has no identifying date of promulgation.

#### **SIP Content Recommendations**

- The pre-1985 Identification of Plan Provisions should be revised to clarify the federally approved rules and the other parts in the SIP.
- Regions should publish the SIP, as required by Section 110(h) of the Clean Air Act.
- Regulatory portions of SIPs must be clearly identified in the IBR (Incorporation by Reference) section. Rules and regulations should be identified by number and by descriptive title. Other material should be described in a manner the average non-EPA reader can understand.
- Materials in the state-specific portions of Part 52 should be edited and updated.

## CONSISTENCY COMMITTEE

### Charge

The Consistency Committee was charged with developing a process that could strike a balance between the need to have consistent application of regulation and policy nationally with the need for regional flexibility to address local issues.

### Findings

- There is disagreement within EPA at both national and regional levels about the necessity and desirability of consistency.
- There is a need for a process that contains:
  - a way to communicate within EPA the policy decisions that have an impact across the Regions;
  - a mechanism to identify issues that have national implications and should be discussed by all Regions;
  - a mechanism that raises identified issues quickly to appropriate top managers, if necessary, for resolution;
- There is a need for a process that contains:
  - a mechanism to encourage Regions to be accountable to one another when an individual Region deviates from existing policy;
  - a mechanism to consult the Office of General Counsel in the event that a proposed Alternative Interpretation results in significant adverse comments.

### Recommendations

- EPA adopt, for a 12 month trial period, a process for identifying national issues and communicating among the Regions quickly when a Region wants to take a position that is an alternative interpretation (deviation) from established national policy or where there is no national policy. This process will allow appropriate managers to become aware of the issue early to facilitate resolution.
- All alternative interpretations (from existing policy) and formulation of new policy should be developed with adequate consultation with affected parties and based on a defensible rationale.
- As the Regions are empowered, they should take responsibility for their actions as they impact other Regions.
- When a Region deviates from the Tier I process and takes a position that is inconsistent with established policies, regulations, etc., that Region should explain the rationale for such deviation. Additionally, corrective measures have been established to correct deficiencies, including, possibly, Agency rulemaking.
- EPA should designate an objective process facilitator within the Office of Air & Radiation (OAQPS desk officer) with the following responsibilities:

- ensuring that the consistency process is being followed and that all issues are addressed in a timely manner;
- ensuring that when there is nonconcurrence on a proposed Tier I Alternative Interpretation, any issue is elevated to the appropriate Agency senior managers for resolution;
- ensuring that all decisions on proposed Alternative Interpretations are properly documented and distributed.

## **DATA COMMITTEE**

### **Charge and Scope**

The Data Committee was charged with reviewing:

1. the current SIPTRAX II data system to analyze the needs of the customers and to recommend improvements;
2. the docket systems of each Region to establish some consistency in the material available in the SIP files; and
3. the Regional files for the status of the availability of federally approved rules to comply with the 1990 Clean Air Act Amendments requiring the Agency to identify federally enforceable State implementation plans by November 15, 1995, and every three years thereafter.

### **Findings**

- The current SIPTRAX data system does not meet the needs of its customers and therefore is not useful to EPA for managing SIP processing. The regional offices, Headquarters, general public, or the regulated community are not able to use the system for most types of management reports on SIP processing.
- Each Region maintains at least one separate tracking system because the current information in SIPTRAX is not helpful to the Regions.
- Because Headquarters cannot access information, each time Headquarters needs information, it must poll the Regions for information on SIP processing.
- The current information is on MAPS which is frequently slow or difficult to access.
- There is a need for a national tracking system that serves as a central repository for SIP tracking information and to serve the needs of Headquarters in answering inquiries to GAO and Congress.
- A central repository for guidance/policy documents, Federal Register boilerplate, and document transfer is desirable, but will not be addressed by the Data Committee.
- Certain items such as the official State submittal and Designee's cover letter, EPA's rulemaking notices (both proposed and final), public comments and responses thereto, and the Technical Support Document (TSD) should be kept in the public docket file.
- The mechanism by which the Regional Offices released information to the public or provided the public the opportunity to review the docket file also differed.

### **Recommendations**

- The Data Committee evaluated two options; both options would be developed by a steering committee of regional and HQ representatives, with one central contract for development and management of the system.

- Option I [Centralized System]--a system located on the Headquarters LAN system and managed by HQ staff. All Regions would use direct access to the NETWORK instead of MODEMS, which would make the system faster and more efficient/reliable.
- Option II [Distributed System]--(The Data Committee's recommendation)--a centrally developed system with all available SIP processing data elements provided to each Region to place on the regional LAN system. All ten systems would be tailored to the needs of each Region, with screens and reports being set up as each Region determines. Each Region would be responsible for uploading core SIP processing data elements needed by HQ to prepare reports needed by HQ customers. Information would be input by the Regions, but the core data elements required by HQ would be uploaded to Headquarters via MAPS on a weekly or monthly basis.
- Docket File should include certain core documents and exclude certain EPA-generated documents.
- One notice should be published in the Federal Register for all Regions by November 15, 1995. This notice will make available to the public all federally approved rules for each State. A contact person for each Region should be identified in the notice.

## **SIP IMPROVEMENT WORKGROUP: COMMITTEE REPORTS**

A result of the April, 1994 Air Division Directors meeting in St. Louis, Missouri was the formation of a Workgroup to examine how state implementation plan (SIP) revisions might be processed more expeditiously. This SIP Improvement Workgroup is comprised of a Steering Team and four committees: SIP Backlog, Options, Consistency, and Data. The following reports of the committees discuss the specific charge, the findings, and the recommendations of each committee.

### **I. SIP BACKLOG COMMITTEE**

#### **A. Charge and Scope**

The charge of the SIP Backlog Committee was to analyze the Agency's current SIP backlog and to devise procedures to eliminate it and prevent its reoccurrence. Initial discussion of the Committee addressed two factors: (1) there was no convention for identifying the SIP universe almost 4 years after the Clean Air Act Amendments of 1990 (1990 Amendments); and, (2) there was no procedure for assessing SIP processing information, which can represent essentially different revisions. For example, a state may prepare and submit either a SIP revision that includes regulatory requirements either applicable to the entire state or applicable to only one nonattainment area within the state. These very different revisions are not equal in terms of Agency processing time.

Therefore, the SIP Backlog Committee devised definitions of "SIP Element" and "SIP Backlog" to establish uniformity in collecting data about the universe of SIP submittals and the backlog. The Committee developed a "lowest common denominator" for the purpose of making workload comparisons between Regions.

#### **B. Definitions: "SIP Elements" and "SIP Backlog"**

##### **1. SIP Elements**

To determine the nature and extent of any SIP backlog, the Committee first delineated an accurate SIP inventory by defining a "SIP Element" and establishing a counting convention to allow EPA to define a "universe" of required SIP submissions and to assess the percentage of those requirements that have been satisfied.

A "SIP Element" is a revision to a SIP submitted to satisfy the requirements of a particular section of the 1990 Clean Air Act and for the area specified by the requirement.

To illustrate, if a State with 3 ozone nonattainment areas submits a SIP revision containing Stage II rules and a 15 percent VOC plan applicable to all 3 areas, the Committee counted that one SIP revision as 6 SIP elements -- Stage II regulations for 3 nonattainment areas and 15 percent VOC plans for 3 nonattainment areas. If a state submits a SIP revision addressing changes not required by a specific section of the 1990 Amendments, the Committee counted that revision as a SIP element consistent with those categories contained in Tables 1, 2 and 3 of the "SIP Reform Policy." A List of SIP elements is included in Attachment 1.

Therefore, there are two types of SIPs included in the inventory:

1. SIP elements required by an explicit statutory provision in the Act; and
2. any SIP submitted that was not explicitly required by the 1990 Act.

The following SIP elements were not included in the SIP inventory:

- incomplete SIPs;
- committal SIPs;
- any SIP where final action was published in the Federal Register before September 1, 1994 (or August 1, 1994 for Direct Final actions); and,
- any SIP that a Region had placed on the "inactive list" or "on hold."

The Committee counted SIP elements by geographic area in most instances. If a Clean Air Act provision applied to several classified areas in a State, then the Committee counted a SIP element for each area. Some SIP elements, such as Small Business Assistance Program SIPs, were counted as "Statewide" SIPs.

## 2. SIP Backlog

The SIP inventory was divided into two categories:

1. SIP elements submitted to meet the requirements of the 1990 Amendments, and
2. all other SIPs, including those submitted prior to the 1990 Amendments and those unsolicited submittals after the 1990 Amendments.

The "SIP Backlog" incorporates those SIP elements without a final approval published in the Federal Register that have been in a Regional office for 18 months or more (24 months for redesignations) and have not been found incomplete. The 18-month start point for backlogged SIP elements is based upon a 6-month

completeness determination and 12-month processing timeframe (18 months for redesignations).

### **3. Results of Backlog Analysis**

Relying on the definitions of "SIP Element" and "SIP Backlog," the Committee tabulated the results of the survey of Regional offices to compile a "snapshot" analysis of the inventory of SIP elements that were in EPA for processing as of September 1, 1994. The Committee had asked each Regional office to fill out a matrix that covered the universe of SIP elements at EPA for processing.

Furthermore, the Committee performed a final quality assurance check by asking the Regions to review the results before completing several analyses of the information. During this process, the Committee was guided by two principles: no useful conclusions were possible without accurate data and the analysis was not aimed at affixing "blame" or "fault." Instead, the Committee conducted the analysis to use factual data to identify those systematic Agency-wide patterns of activity that appeared to contribute to the SIP backlog. All Regions were genuinely cooperative in this effort.

#### **C. Size of the SIP Backlog**

There is a sizeable inventory of SIP elements now at EPA: as of September 1, 1994, there were 1,592 SIP elements in process at EPA. Of these, 1,016 were elements required by the 1990 Amendments; 576 were other elements. Of these SIP elements, 675 are backlogged. Of this backlog, 398 are 1990 Amendments elements, and 277 are other SIP elements. Neither the SIP inventory nor the backlog is evenly distributed across all Regions and States. See Charts 1 and 2. There are also significant differences in the nature of the backlog for the 1990 Amendments SIP elements and the non-1990 Amendments SIPs.

##### **1. 1990 Amendments SIP Backlog**

About two thirds of the 1990 Amendments SIP inventory is associated with actions in 12 States. See Attachment 3. These States tend to be highly populated, major industrial States with the largest numbers of nonattainment areas and with the most severe air pollution problems. Yet, Arizona and Colorado are relatively high on the list due to significant requirements associated with carbon monoxide and PM<sub>10</sub>; Maine and New Hampshire are also high on the list because of requirements associated with ozone transport in the Northeast. Yet, Illinois and Michigan, with a relatively high number of 1990 Amendments requirements, have a relatively low inventory. This may result from a combination of rapid action by Region 5 on 1990 Amendments submittals and failure by the States to make certain required submittals. Seventy-seven percent of the 1990 Amendments

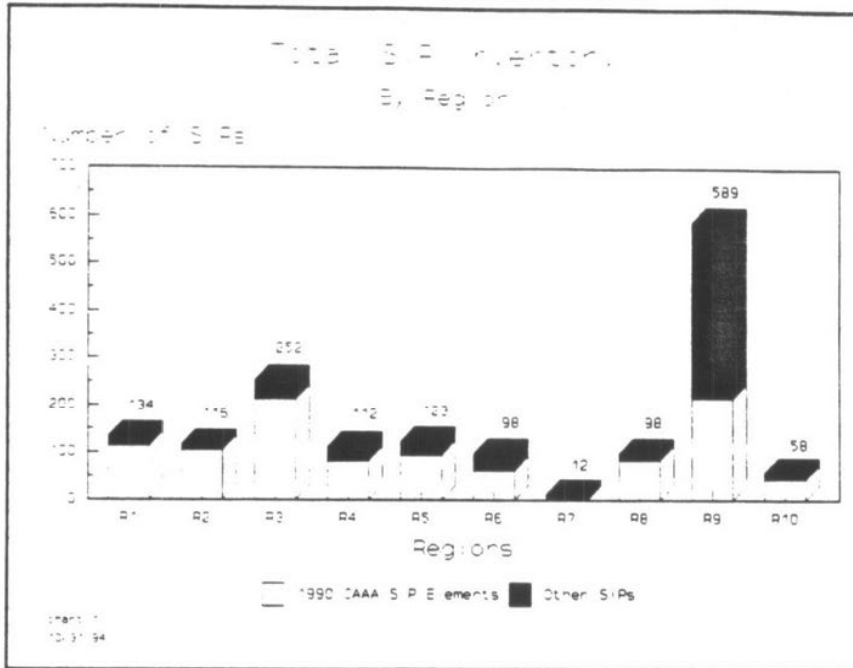


Chart 1 - Total SIP Inventory by Region

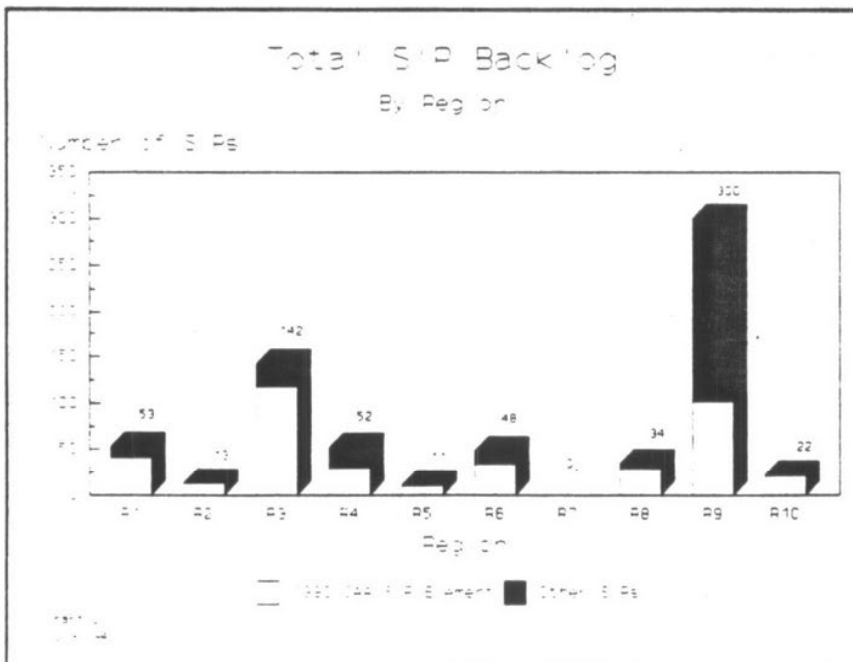
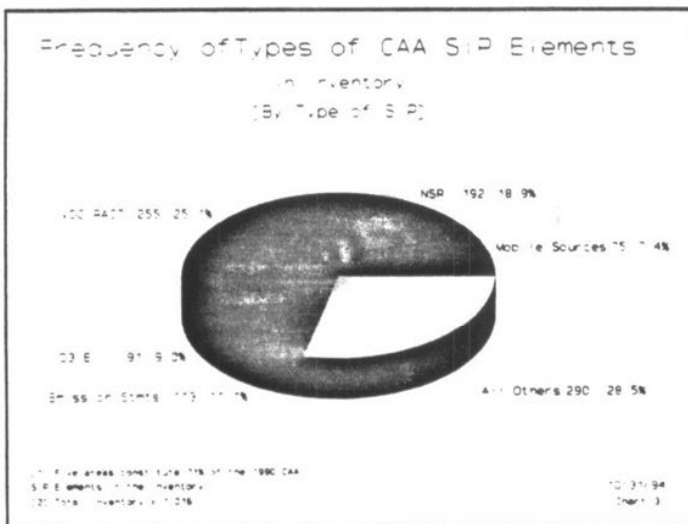


Chart 2 - Total SIP Backlog by Region

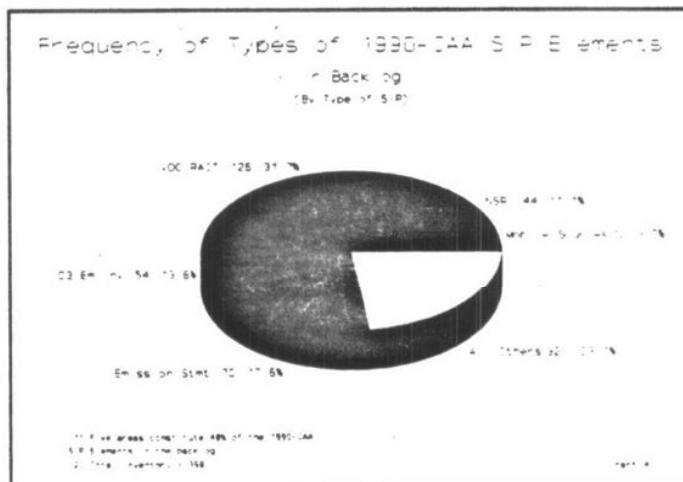
backlog occurs in 11 states. See Attachment 4. Most of these States also have high SIP inventories.

The Committee also examined different categories of 1990 Amendments elements in the inventory and backlog. **VOC RACT** and **emissions inventory/emission statements** and **New Source Review (NSR)** submittals constitute two thirds of the inventory. The first two categories are 45 percent of the total inventory. But, the percentage of these elements that are backlogged varies widely. The VOC RACT and emissions inventory/ emission statements categories are two-thirds of the backlogged SIP elements. Other categories with a high percentage of submittals in

the backlog are **oxygenated fuels** (80 percent of the current submittals are backlogged) and **small business technical assistance programs** (71 percent of current submittals are backlogged). NSR SIP elements have been submitted too recently to be heavily backlogged. However, because NSR SIPs have been assigned lower processing priorities in some Regional offices, they have the potential to constitute a greater percentage of the



Agency's SIP backlog in the future. In addition, the 1990 Amendments SIP submittals that were received in 1993 do not qualify as part of the backlog because they were received too recently. The Committee examined the relationship between the 1990 Amendments SIP backlog and the number of active findings in each Region. It had been assumed that there was an inverse relationship between the number of SIP elements backlogged and the number of active findings. However, the data did not support this assumption. In most Regions, the volume of SIP activity appears to be the



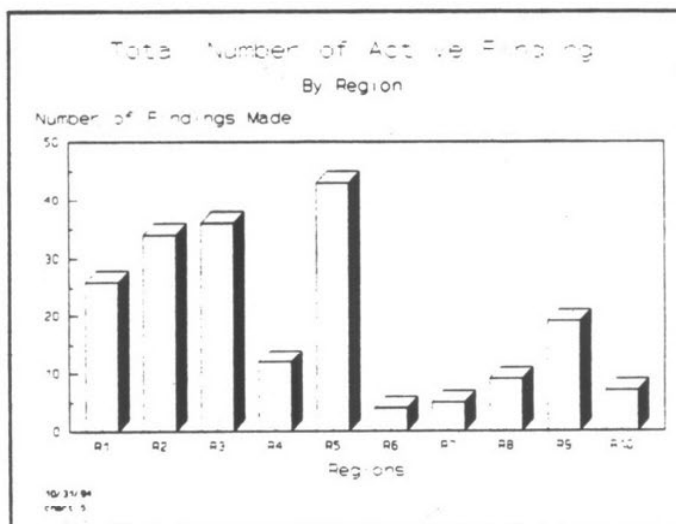
strongest factor in determining both the size of the backlog and the number of active findings. See Chart 5, Active Findings.

## 2. Backlog of SIPs Other than 1990 Amendments

Several efforts prior to the 1990 Amendments have addressed how the process of handling SIP revisions could be streamlined. The SIP Processing Task Group, which issued its report in October 1987, had recommended several processing changes, including increasing Regional responsibility and reducing excessive EPA review, making increased use of direct final rulemaking and letter notices of approval, and including a completeness hurdle to prevent EPA from having to act on blatantly deficient submissions. Many of these processing reforms may have kept the backlog from being larger, although a lack of organized historical data makes this conclusion more qualitative than quantitative. In most Regions, there is not a large backlog of SIPs other than those required by the 1990 Amendments. For these SIPs, 55 percent of the backlog is attributed to one State, California. See Attachments 5 and 6.

There is an inventory of 576 non-1990 Amendments SIP elements in EPA for action; yet, if California's SIPs are removed from the inventory, there are only 124 non-1990 Amendments SIPs that are

now backlogged. The California situation is a factor of the State's organization. California is comprised of 34 local air pollution control agencies; each agency has its own set of air pollution control regulations. As each of these agencies revises its regulations, the regulations are submitted to the State, which compiles these revisions and submits them to EPA Region IX each quarter.



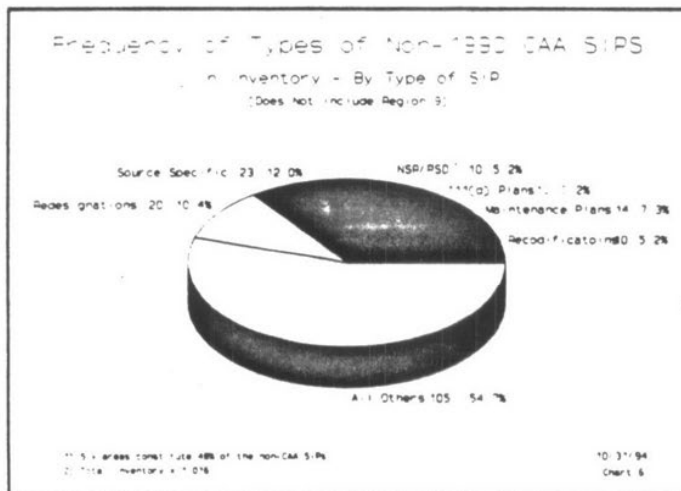
These revisions address both the Act requirements for nonattainment areas as well as administrative and prohibitory regulations for attainment areas. The submittals contain 50 to 200 rule revisions. A preliminary review of the California backlog indicates that 30 percent of the backlog consists of Test Methods received from the State and local agencies. California had 48 local air pollution control agencies when the SIP was created in 1972. Since then, many of the local county agencies have formed "unified" agencies. As each of these unified agencies begins to

generate new regulations, the previously submitted local county agency regulations become part of the Region IX backlog. The EPA cannot remove these regulations until the new "unified" agency submits regulations that replace the individual regulations or until the State formally withdraws the submittal.

### 3. Types of Backlogged SIPs

The Committee looked at the types of non-1990 Amendments SIPs that were now in the inventory and the backlog. Region IX was treated as a special case in this analysis because of the California situation. For the other Regions, about one third of the existing SIP inventory consisted of three categories: **NSR/PSD SIPs, Source-Specific Revisions, and Redesignations.** See Chart 6. Significantly, these three

areas were only about 25 percent of the backlog. See Chart 7. The remaining non-1990 Amendments SIPs were distributed among a number of categories; no generalizations were possible.



### D. Inactive SIPs

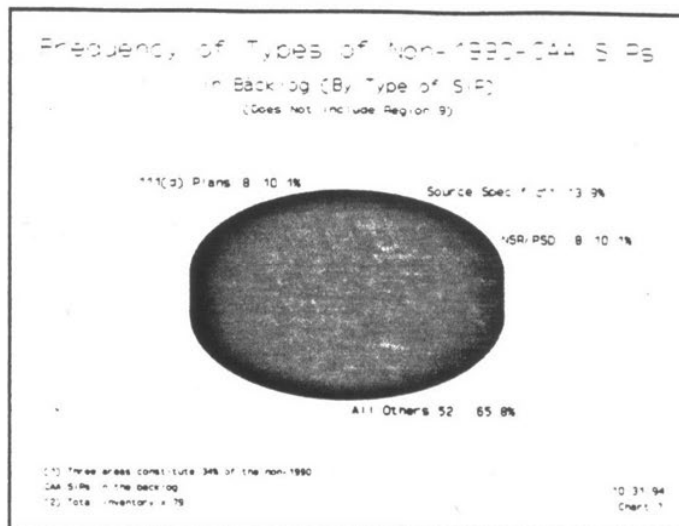
One other SIP category is the "Inactive" classification, which was established during the earlier SIP reform effort to distinguish State submittals that did not merit either

approval or disapproval action, but that also could not simply be returned to the State. Generally, a SIP was termed "inactive" when the Region made a specific management decision that no time or effort would be expended in trying to process the SIP. Regional use of the Inactive category has varied significantly. See Chart 8. Some Regions have never used the category and have attempted to act on all submittals. Other Regions have aggressively used the inactive category--in agreement with their States--to deal with those submittals that were required in the past, but because of subsequent events, there is agreement that it would be a poor use of management and staff resources to get the old submittals out of the "system." During the course of the Committee's analysis, some of the Regions considered using the Inactive category more extensively. For example, an initial analysis revealed a total of 96 inactive SIP elements. After further review, this total rose to 540.

The Committee compared the number of active and inactive non-1990 Amendments SIPs. The results show that a significant number of these SIPs are

now being classified as inactive. See Chart 9. From a management standpoint, this is an important development for EPA because of the need to use available resources in the most effective manner. The Committee is not aware of any adverse consequences from the use of the inactive category to date.

#### E. Data Analysis Insights



The Committee's findings suggest several insights into the nature of the SIP backlog. First, consistent definitions are essential in defining and discussing the SIP backlog. These definitions need to be shared and agreed upon with all those inside and outside EPA who are responsible for and review the task of processing the SIPs. Second, there is a SIP backlog, but its nature and extent are somewhat different from what the Committee assumed. With the exception of California and the continued use of the inactive category, the backlog of non-1990 Amendments SIPs is not large. Whereas no backlog is desirable and no backlog should be the Agency's goal, that the backlog is not larger is a credit to past reform efforts. The approval of the Title V operating permit programs, and the accompanying increased focus on applicable requirements, may potentially create an upsurge in source-specific SIP revisions. EPA should now work to further streamline SIP processing to prevent any such surge from creating a new backlog. Moreover, the situation in California warrants special analysis to determine whether there are ways to minimize the impact of that State's administrative structure on EPA's work load.

Nevertheless, EPA has had difficulty processing some of the 1990 Amendments SIP elements, especially those dealing with VOC RACT and Emissions inventories. Certain Regions have also experienced difficulties processing PM<sub>10</sub> SIP elements. There is a substantial processing work load for the November 1993 submittals that could produce an upsurge in this part of the backlog if not carefully managed. In addition, many of the same staff who must process SIPs are also engaged in the task of working with States on the November 1994 submittals. There is obviously no opportunity for complacency contained in this analysis; action is now necessary to not only address the existing SIP inventory, but to prevent a much worse future backlog.

There are some components of the SIP backlog that reflect conscious management decisions about how best to implement the Act. The use of the Inactive category is one example. Regions have placed a higher management priority on working with States to submit approvable 1990 Amendments submittals than in completing other non-1990 Amendments work. Regions have also had to choose to further the goals of the Act by working with a State to improve a submittal that seems deficient on its face, but that could be rendered approvable, through further work. The data gives no clear guidance on a best way of addressing all questions about SIP processing. Different contexts require different actions by EPA even if the SIPs involved seem be similar. Regions can impact the current size of the backlog and mitigate, if not totally prevent, future buildup. This factor credits past reform efforts and current Headquarters management philosophy.

#### F. Identification of root causes

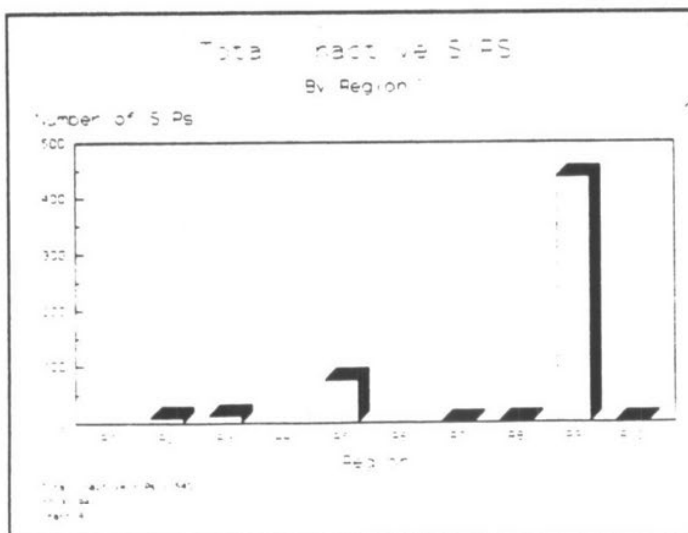
Many activities affect the development of the backlog. These activities relate to the States in preparing or revising SIP submissions and to the Regions and to Headquarters as the SIPs are processed. The actions and activities were reviewed by organization--Region, Headquarters and State-- and ranked in order of effect upon the development of the backlog.

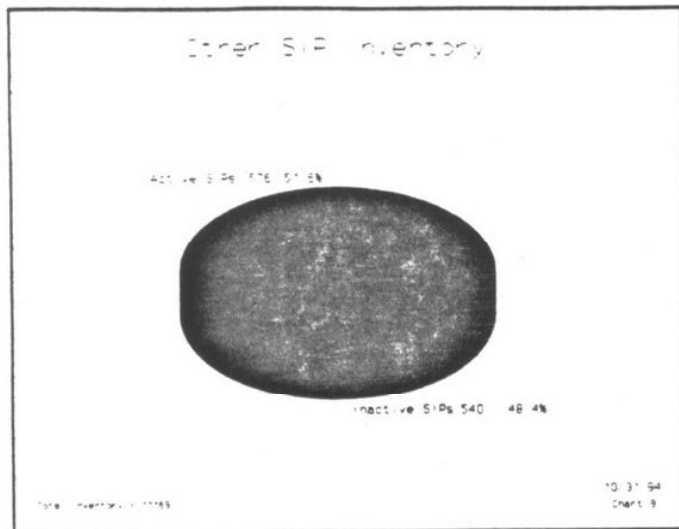
##### 1. Regions

##### a. Regional resources are limited.

The Regions face numerous competing priorities in processing the large number of SIP revisions required by the Clean Air Act 1990 amendments. Regional SIP processing resources in the wake of the 1990 Amendments were not dramatically

increased. During the last four years, Regions have focused on pre-submittal reviews in an effort to ensure that approvable revisions are submitted. As Regions attempt to be heavily involved in upfront work with their States and at the same time balance SIP processing responsibilities, resources are stretched to the limits. Additional resource drains in some Regions have resulted from significant increases in Freedom of Information Act





requests regarding SIP-related activities.

Staff turnover also contributes to the backlog because of the loss of institutional knowledge and continuity in proposal actions versus final actions. The Regions' constant need to provide comprehensive and specific ongoing training to new staff on SIP processing and writing Federal Register notices can slow down the process and result in an

accumulation of unprocessed SIP revisions.

**b. Regions assign certain SIPs lower priority.**

Regions assess the relative importance of the revisions in-house in an effort to effectively manage their resources. Processing and "backlog" decisions can reflect management decisions about the importance of particular SIPs. For example, Region III instituted a "triage" system to reflect those SIPs that should be processed on a priority basis. Region V, in consultation with the States, will classify certain SIP revisions as inactive if a State agrees that processing a particular revision is of no environmental consequence. Region IX has recently reclassified a significant number of submittals as inactive because the original submittals came from counties in California that have now been consolidated into air quality control districts.

**c. Regions use a low threshold for completeness.**

Regions may accept as complete, submittals that minimally fulfill completeness criteria. The Regions thereby spend a long time working with a State to correct the problems. Acceptance of weak or minimally acceptable SIPs may be the result of trying to avoid the issuance of finding letters, principally because of FIP implications.

**d. Regions suspend processing in anticipation of further state submittals.**

Often a State will submit a revision that is found complete but the State indicates that the submission will be supplemented, revised, or superseded because of an

approvability issue. In such a case, the Region may suspend processing of the existing submission to avoid a disapproval finding. This potential disapproval can result when the state is unable to share a draft of the regulatory change prior to formal submission.

**e. Regions experience delays in bringing policy issues to closure.**

Regions may face politically complex and sensitive issues that require negotiations at the highest level of Regional/State organization. Other lower level issues may be discussed at the staff level with the States and/or with Headquarter's staff and left unresolved for long periods of time. There are many reasons for such lack of resolution, including:

- Regional management does not place a high priority on processing SIP revisions;
- disapproval actions may be considered as "failure";
- disapproval actions start FIP clocks and Regions don't have resources to devote to FIPs; and
- final decisions in certain policy issues can produce lawsuits or negative public reaction.

**f. Regions submit flawed Federal Register notices for publication.**

When a Region submits a flawed Federal Register notice, the Office of Federal Register holds the package until corrections are made (e.g. typesetting request omitted).

**2. Headquarters**

**a. There is a lack of EPA guidance.**

When national rules or guidelines are delayed, SIPs are developed and submitted in the absence of final guidance because of the Clean Air Act's statutory deadlines. Processing delays occur as a result of trying to use individual SIPs to resolve national policy issues. In certain instances, the Regions prepare SIP revisions based upon existing guidance that is subsequently revised or reversed, e.g. NSR requirements, CTGs versus ACTs, negative declarations. As SIPs are developed and submitted to meet requirements of a new program, a submittal may approach

the requirements from a unique or alternative perspective. Headquarters may take a long time to decide how to respond to this new approach.

**b. Headquarters role in SIP review may cause delay.**

Prior to the SIP Reform in 1989, the sequential review of all SIPs by Regions and Headquarters created an almost unworkable situation. Following SIP Reform and the advent of classifying SIPs into Tables I, II, or III, processing improved. But many SIP packages (Table I SIPs) were still held up due to Headquarters's review. In October 1993, additional SIP categories were moved from Table I to II and from Table II to III. This reclassification resulted in additional SIPs being processed by the Regions. While this procedure has helped expedite processing time, Regions still receive comments from Headquarters on Table II SIPs at the very end of the 40-day comment period; subsequent resolution may go well beyond the 40-day review period. Examples include the Small Business Assistance SIPs, and the Texas Stage II vapor recovery SIP. When the Agency is sued regarding actions it has taken, the processing of related SIPs slows due to the uncertainty created by the pending legal action. Also once the Court renders a decision, the Agency may then revise the applicable guidance.

**3. States**

**a. States may deviate from national policy.**

States may sometimes prepare SIP revisions that contain regulations that deviate from existing national policy or regulations. (In some states, local agencies or districts have sufficient legal authority to submit revisions separate from the state agency). For example, in the VOC RACT fixup regulations, States adopted regulations that deviated from national guidance on VOC RACT. Once submitted, the Regions spent much time discussing with the States and with Headquarters whether such deviations were approvable. Such deviations require more time to process. Many States have boards or other oversight authorities that consider and adopt regulations submitted by the State's administrative air agency. The State air pollution control agencies are typically more cognizant of the requirements that EPA has set than their governing boards or oversight authorities. However, often the State board will adopt a regulation and exclude a portion of the regulation or provide an exemption that the State air agency did not endorse. This action impacts the Regions similarly to the deviation action described above, although it comes from a different source.

**b. States may have an extended process for regulatory review.**

Often a State will submit a regulation and, for numerous reasons, will advise EPA that it intends to amend or supersede the revision with an additional submission. The Region will suspend processing of the original submission in anticipation of receipt of the additional information. The State has a very lengthy process for adopting regulatory changes, and the new submission may be greatly delayed.

**c. States have complex organizational systems.**

The organizational composition of States like California tend to contribute to the backlog problem. Regulatory revisions are received from districts as opposed to the State agency. This creates an additional workload upon a Region to process multiple SIP regulatory packages as opposed to the processing of a single SIP package for the State.

**d. State SIP includes adopted non-regulatory provisions.**

A State SIP submittal may include adopted non-regulatory provisions. Thus the State must revise the SIP in order to change these provisions. This problem is especially acute in California, where the State submitted numerous non-regulatory provisions as part of the original SIP in the 1970's. The State has submitted many revisions to these portions of the SIP. Processing these revisions creates a significant paperwork burden with little or no air quality benefit.

**G. Identification of options for addressing root causes**

**1. Regional Reorganizations and the Impact Upon SIP Processing**

The 10 EPA Regional offices are currently undergoing restructuring and reorganization. Some of the Regional office restructuring are more extensive than others. At present OAR has reviewed proposed reorganizations from Regions I, II, V, VI, and VIII. The remainder of the proposals are due to be submitted in March, 1995. A common theme among the reorganization plans that have been reviewed is the restructuring of the Regional offices to address multi-media issues, to focus on ecosystem protection, and to have a more pronounced role in strategic planning activities. In almost all of the proposals, however, there appears to be a general de-emphasis of Clean Air Act-related activities, particularly SIP processing. The Backlog Committee found that one of the root causes for the backlog of unprocessed SIP revisions was the lack of priority placed upon SIP processing by Regional management. If this attitude was evident in the existing organizations, the reorganization of the Regions and the further de-emphasis of SIP processing can only exacerbate the formation of a backlog. The Agency must ensure that a

continuing theme in the Regional Offices is that SIP processing is a high priority and must remain so until EPA has finally approved the large number of revisions currently residing in the Regional Offices.

## **2. General recommendations**

The original charge to the SIP Backlog Committee was to examine the current SIP backlog and devise procedures to eliminate it and prevent its reoccurrence. The Committee has concluded that even though the complete elimination of the backlog may not be an achievable management objective, there is a need to make conscious decisions regarding the makeup of the backlog. The Agency does not have the prerogative to return SIP revisions to the State once they are found complete. However, the processing of certain SIP revisions consumes precious resources with little or no environmental benefit. In instances in which resources could be better utilized, it should be the responsibility of Regional management, after consultation with the States, to elect to place particular SIP revisions in an "inactive" or non-processable status. The use of an inactive category has met with success in several Regions. The Committee recommends that a Region that chooses to implement such a category establish (1) defined procedures so that this process is not abused, and (2) effective communications with affected State managers so that all parties clearly understand the use of the inactive category.

The following more specific recommendations, which were developed in response to the root causes of the backlog, are divided into 3 categories: resource, communications and policy/guidance. The Committee recognizes two important factors: (1) in the past the Agency has accepted some delay in the processing of SIPs to allow the States additional time to correct deficiencies so that the Agency could approve otherwise unapprovable SIPs, and (2) general improvements that simplify SIP processing will reduce and prevent unacceptable backlogs. Furthermore, the Committee believes that these recommendations should be reviewed in one year so that they can be enhanced based upon any changing conditions over the course of the year.

## **3. Improvements in the area of resources**

One source of the backlog problem, and a potential for its continued existence, is related to the ability of the Agency to devote adequate resources to SIP development and processing to address the growth in SIPs related to the November 1992, 1993, and 1994 submittals.

- Retain core of knowledgeable SIP staff by enhancing the SIP processing profession, including recognition and the greater use of the journeyman GS-13 level for SIP experts.

- Develop Standard Operating Procedures (SOP) because the greater development and use of SOPs can make SIP processing easier and increase the effectiveness of junior staff in the process.
- Train junior staff in SIP processing in courses modelled after the national workshops on SIP process training conducted by OAQPS and the Office of Federal Register.
- Develop an electronic repository for current guidance to simplify SIP processing and allow junior personnel to be more effective.
- Assign SIPs to the "inactive" category using nationally developed criteria.

#### **4. Improvements in the area of communication**

Higher quality and fully approvable SIPs require less time and effort to process than those that are flawed or poorly documented.

- Ensure early and effective communications with State agencies. Not only are problems avoided, but if the State chooses unique or alternative approaches, policy discussions can begin earlier.
- Ensure early and effective communications with Headquarters to develop guidance and recommendations. States and the Regions must have a clear understanding of what guidance and policy EPA will or will not issue and what options the States have when guidance will not be issued by the deadline.

#### **5. Improvements in the area of Agency guidance and policy development**

Rapid processing of SIPs is adversely affected by the lack of clear Agency policy and guidance; procedures that improve the clarity, availability and timeliness of such guidance will reduce delays in SIP processing.

- Empower the Regions to make more policy decisions.
- Identify and resolve issues of national scope at an early stage.
- Comply with schedules for the development of national standards and guidance. In cases where these commitments will be missed, Headquarters should establish real options for the States and Regions.

16.

- Make broader use of the "letter notice" of approval, as has been done in Region V.
- Endorse and use SIP Flexibility policies that would establish streamlined procedures for amending SIPs while still providing for public notice and participation, and EPA veto authority.

The Options Committee has recommended a variety of SIP processing improvements. Generally, these recommendations have the potential to expedite processing and reduce SIP backlog. In particular, the SIP Backlog Committee believes recommendations 1, 4, 6, 7, 8, 9, 10, 13, and 17 address problems related to SIP backlog identified by the SIP Backlog Committee and concur in their recommendations.

#### **6. Priority recommendations for immediate implementation**

The following recommendations, which are limited to certain SIP actions, can be implemented immediately and can eliminate a specific subset of the SIP backlog very quickly.

- In consultation with affected States, Regions should use the "inactive" classification for SIPs that are no longer worth processing because of changing circumstances.
- The Agency should distinguish the Region IX backlog by recognizing that the majority of the SIP backlog in Region IX is attributable to unique circumstances in California's State organization and is not indicative of a failure on the part of EPA. As such, those particular SIP elements should be distinguished from the general SIP backlog in discussing appropriate EPA management responses to the backlog.
- Regions should consider the expanded use of Letter Notices as a means of expediting SIP processing where appropriate.

## **II. OPTIONS COMMITTEE**

### **A. Charge and Scope**

The charge of the Options Committee was (1) to examine SIP improvement options that simplify the review process and maximize Regional authority and (2) to examine options to make SIPs more understandable for internal, state and public customers without jeopardizing federal enforceability.

The Committee developed its recommendations after reviewing the positive and negative aspects of the current system because the Committee believed that evaluating the positive and negative aspects of the existing system would facilitate developing recommendations for a new system. The Committee's report first addresses SIP processing, identifying the positive and negative aspects of the current system and then briefly setting forth the recommendations developed, including the rationale and any anticipated problems associated with such recommendations. The second part of the report follows the same format for SIP content.

### **B. SIP Processing**

#### **1. Positive Aspects of the Existing System**

##### **a. Techniques that expedite publication of final action in the Federal Register**

Several current processes expedite review of packages by eliminating layers of review. These processes include classifying packages as Table 3. This classification resulted in expedited review since Headquarters does not review Table 3 packages and packages could be shifted from Tables 1 and 2 to Table 3 at the final rule stage if no adverse public comments were received.

Another positive aspect of the current system is that Headquarters is provided a time limit for reviewing Table 1 and 2 actions. If Headquarters fails to comment to the Region within that time period, the Region may forward the package to the Office of the Federal Register. In addition, the Regional Offices now send completed Federal Register notices directly to U.S. EPA's Federal Register liaison, rather than routing them through OAR. Finally, the direct final rulemaking procedures, particularly as recently revised, have been identified as time saving mechanisms.

**b. Techniques that improve Regional Office and Headquarters communication**

Several procedures facilitate communication between Regional and Headquarters offices. The SIP workgroup structure is one mechanism for facilitating communication. The current practice of the Headquarter's office identifying the reviewer upon receipt of package (by facsimile to the Region) is also a positive process because the Regional Office then knows the contact person if any issues arise or if there is concern over the progress of the package. Another device that benefits communication is the scheduling of conference calls with Regional Offices and Headquarters reviewers to discuss particular SIP packages. The issue resolution process, which raises to a management level issues that cannot be resolved at the staff level, is an effective means of opening the lines of communication between management and of resolving issues in a timely fashion.

**c. Tools that aid in drafting Federal Register Notices**

Specific tools facilitate SIP processing and the drafting of Federal Register notices. The SIP processing manuals prepared by Headquarters and Regional Offices are very effective tools as long as they remain current. The boilerplate Federal Register notices are effective mechanisms for assisting in the drafting process, particularly if the boilerplate is made available on a central word processing system for access by Federal Register drafters.

**d. Techniques that result in approvable SIPs**

The receipt of an approvable SIP greatly improves a Region's ability to process a SIP in a timely manner. Several processes help to ensure that states submit approvable SIPs. Regional Office review of draft state submittals or regulations significantly increases the likelihood of an approvable submittal. In many instances, such review is more beneficial if the Office of Regional Counsel is involved either in the entire review or with respect to specific issues raised to that office. Training courses for the States help to ensure timely, approvable submissions. Such training could include substantive training on specific types of submittals as well as training regarding the administrative matters concerning SIP submittals, such as completeness.

**e. Techniques that track SIPs in the Regional Office**

Administrative processes play a large role in effectively processing SIPs. The use of a SIP Processing "expert" to log in SIPs immediately upon receipt from the State is a positive administrative procedure. In addition, developing a matrix (that could be shared with the State) for action on submittals is also an effective administrative tool for ensuring SIPs are processed in a timely manner.

**f. Techniques that assure Regional Offices review appropriate SIPs**

SIPs can be processed in a timely manner if the Regions only process SIPs that are substantively complete. Therefore, returning incomplete SIPs to States is a very effective tool for eliminating unnecessary SIP action.

**2. Negative Aspects of the Existing System**

**a. Techniques that delay publication of final action in the Federal Register**

Several processes of the current system delay publishing actions in the Federal Register. Headquarters review slows down processing and, in many ways, seems duplicative. Despite the procedures for Headquarters to review packages within a specified amount of time, sometimes Headquarters reviewers will fail to complete review by that time or will submit comments at the last moment and note that more comments are to follow. In addition, the failure of Headquarters and the Regional Offices to adequately communicate regarding the status of a SIP is a problem. For example, at times Headquarters fails to indicate whether it is concurring by failing to return the concurrence sheet, and the Regional Offices fail to follow-up in order to determine the status of Headquarters review/comments.

Regional Offices lack resources for SIP processing. Both the Regional program and Regional Counsel offices have insufficient resources. Furthermore, political pressure may prohibit the disapproval of a SIP, thereby leading to lengthy negotiations with a State to receive corrections. These negotiations take place during the statutory period provided for EPA action on the submittal. Late issue identification by both the Regional Offices and Headquarters serve to slow down the processing of SIPs.

**b. Techniques that hinder Regional Office and Headquarters communication**

Several factors hinder communication between Regional and Headquarters offices and between Regional Offices. Frequent changes in the list of Headquarters reviewers and the fact that the list is not regularly updated leads to confusion. Although the issue resolution process has positive aspects that appear to facilitate communication about controversial issues, the process is too lengthy. Moreover, the outcome of issue resolution generally is not memorialized; therefore, it is easy to change the bottomline decision later. This situation results in inconsistencies between Regions.

**c. Obstructions in drafting Federal Register Notices**

There are many SIP processing administrative difficulties that arise. Regional Offices often have difficulty keeping track of administrative changes in Federal Register language, such as the language concerning Executive Order 12866, and with changes to boilerplate language. Headquarters also makes changes to boilerplate language without an adequate explanation or rationale. Boilerplate language may often be too lengthy and legalistic rather than reader friendly. In addition, SIP processing manuals from both Headquarters and Regional Offices become outdated too quickly. Regions are often faced with administrative issues that are first raised when the package is forwarded to the Office of the Federal Register for publication.

The Regions generally believe that there is confusion over what the Technical Support Document (TSD) should contain in contrast to what the Federal Register notice should contain. This confusion may be attributed to the lack of boilerplate TSDs. With respect to Headquarters review of SIP packages, Regions believe that Headquarters spends too much time making stylistic or editorial changes to Federal Register notices, rather than focusing on issues that would "stop" a package from being published. Regions also believe that the legal review of SIPs focused too much on the Federal Register notices rather than on the actual regulations.

**d. Techniques that hinder an approvable SIP being submitted by the States**

There are factors that inhibit the submittal of approvable SIPs. Adequate guidance is not always available to the States in a timely fashion. Moreover, the absence of substantive checklists that could be used by both the Regions and the States may have a negative effect on the State's ability to submit an approvable SIP. The Options Committee believes that even when States submit SIPs early in draft form, a technique noted as a positive aspect of SIP processing, Regional resources for review of the draft submittal are often inadequate. In addition, the Office of General Counsel (OGC) resources available for SIP review are typically not used at this early stage but rather are focused after the formal SIP is submitted and a draft Federal Register notice is prepared.

**e. General frustrations with the SIP processing system.**

The completeness criteria, SIPTRAX, and Part 51 hinder timely SIP processing. The current completeness criteria do not adequately address the current SIP world and must be revisited. The completeness criteria do not address the specific types of SIP submittals required by the 1990 Amendments, but rather speak to the more general type of SIP submission EPA received under the pre-amended Act. In addition, 40 C.F.R. Part 51, which sets forth general provisions for SIPs, is

outdated and needs revision. Finally, SIPTRAX is not an event tracking system and, therefore, is not useful in revealing which SIPs are processed late and why there are delays in processing.

### **3. General Principles for New System.**

The Options Committee developed "General Principles" that guided the recommendations in this report. These General Principles are the underlying bases for the specific recommendations adopted by the Committee.

#### **a. Regional SIP processing and sign-off.**

Maximum control for processing SIPs should be at the Regional Offices; Regional Administrator should be the signatory of all SIP packages. This principle is a significant departure from the current system whereby Regional offices and Headquarters share the role of processing SIPs. Pursuant to this principle, the Options Committee effectively recommends that the existing SIP Tables be dissolved and that no specific type (e.g., I/M submittals, redesignation requests) of SIP packages routinely will be subject to a formal system for review by Headquarters. The Consistency Committee has developed a process for resolution of issues regarding proposed or suggested Alternative Interpretations from established regulation, language (e.g., Preamble), policy or guidance. The process allows for up-front/early discussion and resolution for proposed Alternative Interpretations, including an escalation process and suggested corrective measures in the event that Alternative Interpretations are not properly resolved. See Recommendation 3.

In addition, OGC will be provided an opportunity to review significant adverse comments and the response to those comments. Otherwise, Headquarters review of all or a portion of a SIP submittal or Federal Register package will be at the option of the Region.

#### **b. Early issue resolution.**

Issues should be resolved as early in the process as possible during the review of a draft or formal SIP submittal. The success of the SIP program is largely dependent on EPA's working relationship with the State. Mutual respect is necessary for a good working relationship. EPA can receive that respect only by providing States with timely, supportable feedback on draft and final rules. While the Options Committee recognizes that there may be times when issues do arise late in the process, the Committee believes that as a general principle, the Agency should work as hard as possible to resolve issues as early as possible, preferably while the State is still in the rule development stage.

**c. Regional SIP processing within 12 months of U.S. EPA's completeness determination.**

Regions should affirmatively determine whether SIPs are complete and process SIPs within 12 months of completeness determination. Under the current SIP process the Agency frequently takes longer than the 12-month period provided under the CAA to approve or disapprove complete SIP submittals. Moreover, there is some concern that the Agency is not affirmatively reviewing SIPs to determine completeness and is not making findings of incompleteness for all SIPs that are incomplete. The Clean Air Act requires EPA to review submittals for completeness and to approve or disapprove SIPs within specified time frames. EPA should take affirmative action to comply with these statutory mandates. A State submittal is not federally enforceable until it is approved into the SIP.

**d. Headquarters issuance of guidance and regulations.**

Headquarters should timely issue guidance and regulations necessary for reviewing SIPs. The States and the Regions will need to rely on those documents for producing and reviewing SIPs. Under the Option Committee's recommendations, Headquarters role in the SIP process will be shifted to place more emphasis on timely resolution of issues either raised by the Regions or raised as an initial matter in drafting regulations and guidance. Providing both the Regional Offices and States with thorough guidance and regulations early in the process will help assure that SIPs are consistently developed and that the SIPs will comply with the mandates of the CAA.

**e. Regional Counsel review of SIP packages.**

Regional Counsel review of draft and formal SIP submittals and SIP packages should be increased. Regional Counsel resources should be increased. The fourth general principle recognizes that in order to provide States with the necessary feedback on draft and formal SIP submittals, legal review and advice is imperative. Because the role of formal OGC review will be eliminated for most SIP packages, although OGC will be available for consultation on specific issues, the Offices of Regional Counsel will carry the sole burden of providing legal advice with respect to specific SIP submittals. Therefore, early and thorough review by ORC will be increasingly necessary. Because of the expanded role for ORC review, the Options Committee also believes that it will be necessary to increase ORC resources. Currently, most of the Regional Counsel offices have difficulty devoting sufficient resources to SIP review. Under the recommended system, the Regional Counsel offices will need to devote more resources. To do so adequately, they will need an expanded staff.

#### **4. Recommendations for New System.**

##### **a. Abolish SIP Tables**

The Options Committee recommends that the SIP Tables should be abolished and that all SIPs should primarily be processed within the Region and signed by the Regional Administrator. Despite general recognition that Headquarters review does provide some benefit to the SIP process, the countervailing balance of timely review of SIPs and the potential for developing alternative processes to ensure that those benefits are not entirely lost (e.g., through the consistency process) has led to the recommendation that the Regional offices take responsibility for developing and issuing SIPs.

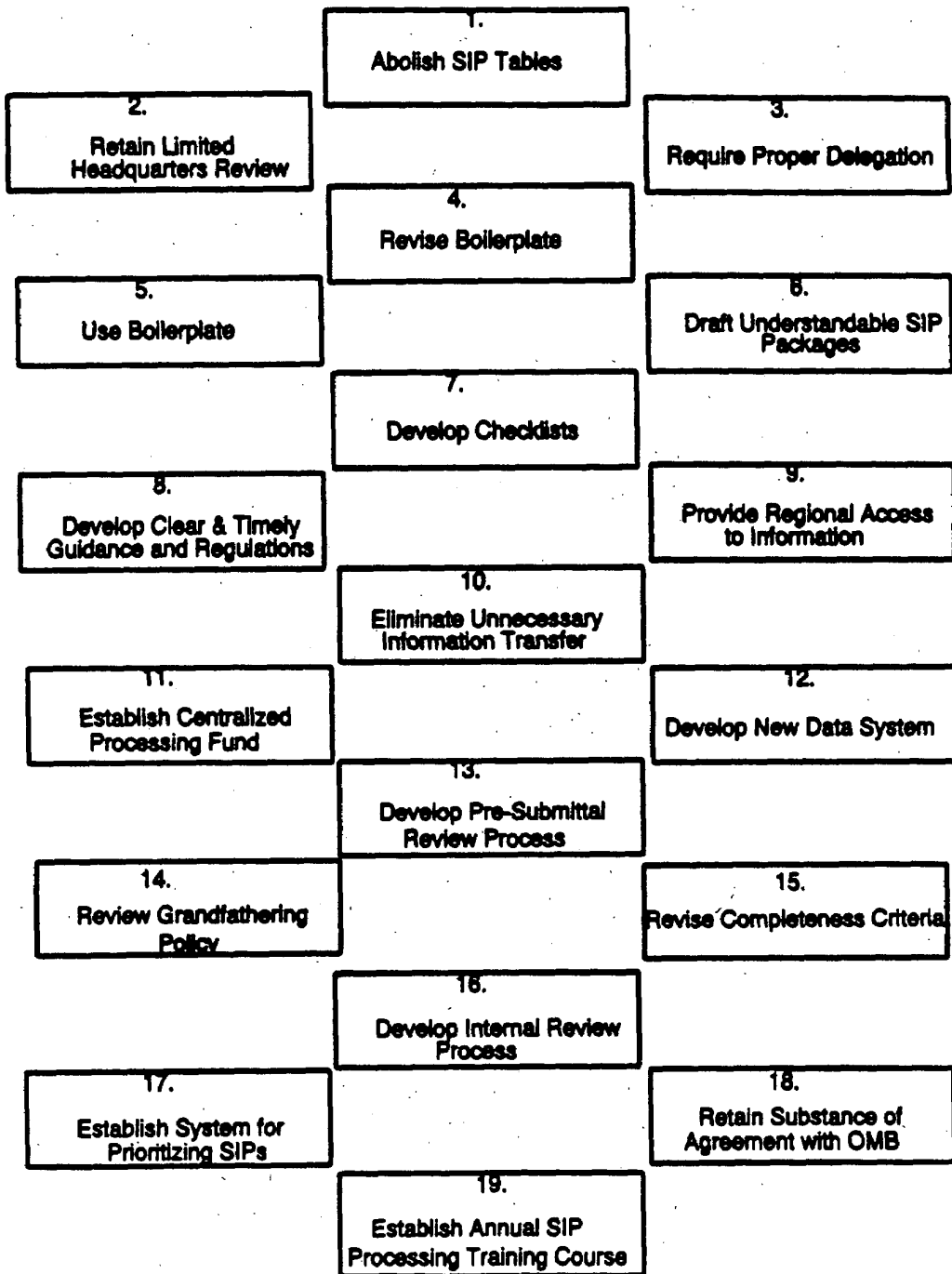
##### **b. Retain Limited Headquarters Review**

Although the Options Committee recommends that Headquarters does not formally review any subset of SIP packages on a regular basis, the Committee recognizes two instances where Headquarters review of at least a portion of specific SIP packages is essential.

**Alternative Interpretations:** The Consistency Committee has developed a process for determining when a Region may propose action on a SIP package when such action may deviate from existing national policy. Pursuant to that process, the Regions may determine that an alternative interpretation of the policy is acceptable for the conditions represented in that SIP package. This resolution process should occur at an early stage, most likely before the Region has drafted specific language for the SIP. However, when such language is drafted, [one or more offices in] Headquarters will review the language discussing the alternative interpretation to determine whether it sufficiently represents the agreement reached and whether it presents any other legal or policy problems. As a general rule, Headquarters will have 10 working days to review such an alternative interpretation. If a shorter or longer period may be needed because of the complexity and the sensitivity of the issue involved, the Region and the relevant Headquarters offices should work together to determine an appropriate review period.

**Significant Adverse Comments:** The Office of General Counsel will be provided an opportunity to review SIP packages containing significant adverse comments and the responses thereto. The Options Committee recognizes that there is a significant litigation risk when adverse comments are received on a SIP package. Therefore, to strengthen the defensibility of any potential litigation, it is important to involve the Office of General Counsel in drafting the rationale for any approach taken in the final rule. The Region should notify OGC when significant adverse comments are received and should identify the nature of the comments. At that

## RECOMMENDATIONS FOR NEW SIP PROCESSING SYSTEM



point OGC will indicate whether it needs to play a further role in reviewing the draft response to such comments and, perhaps, based on the nature of the comments and the action being taken, the entire final action notice. If mutually agreed upon, OGC and the Region may determine that OGC should take the lead in drafting responses to certain comments. As with draft alternative interpretations, the presumptive period for review of draft responses to comments will be 10 working days. However, based on the complexity of the issues involved and the number of comments received, the Region and OGC may establish a shorter or longer review period.

**c. Require Proper Delegation**

The existing delegation provides for Regional Administrator signature of SIP actions represented by the categories "initially published in the Federal Register, and as periodically revised by the Assistant Administrator for Air and Radiation." The Memorandum of Delegation further provides that changes in the categories "will be documented by memorandum from the Assistant Administrator, Office of Air and Radiation, to the Regional Administrators." Therefore, the Assistant Administrator, at a minimum, must issue a memorandum to the Regional Administrators, providing that signature authority for all SIPs has been delegated. However, in order to more clearly indicate in the delegation itself what authority has been delegated to the Regional Administrators, the Options Committee recommends that the delegation be revised to specifically state that the signature authority for all SIPs, Section 111(d) plans, and redesignation requests has been delegated to the Regional Administrators.

**d. Revise Boilerplate**

Boilerplate is a positive aspect of the current SIP processing system in that it helps the Regions produce Federal Register packages quickly. However, some of the boilerplate is too long and too legalistic. Furthermore, for some major programs, final boilerplate has never been developed. Therefore the Options Committee recommends that specific boilerplate be revised or initially created by deadlines set forth in Attachment 7. The dates identified in Attachment 7 are the dates by which the Regions should have final boilerplate available for use. In addition, the Options Committee has identified boilerplate that does not need to be revised since those types of SIP submittals have already been processed, for the most part. These are also listed in Attachment 7, which addresses SIP requirements due on or before November 15, 1994. For future requirements due under the Amended Act, the Options Committee recommends that boilerplate be drafted within four months following the required submittal date.

In developing the boilerplate, the Options Committee recommends that Headquarters should draft only the program specific information and not include the

standard SIP language that is included in all SIP packages (e.g., regulatory flexibility, OMB review under E.O. 12866). The standard SIP language will be available at the Regional Offices and can be combined by the Regional staff with the program-specific boilerplate. Keeping the standard boilerplate separate will ease the administrative duties of the Regional SIP processing contact, see Recommendation 9, who must insert revisions to boilerplate. If standard SIP language is attached to all types of boilerplate, any revision to the standard SIP language would then require multiple changes by the Regional SIP contact.

Headquarters should work with the sub-lead Regional office in distributing the draft boilerplate to the Regional Counsel and Regional program offices. Each Region should submit one set of comments to the sub-lead Regional office that will coordinate a Regional response on the boilerplate.

**e. Use Boilerplate**

In identifying the positive aspects of the current system, the Options Committee identified boilerplate Federal Register notices as speeding up the process of action on SIP submittals. In addition, the boilerplate assists the public because it provides a consistent format for similar packages. Therefore, Regions should use the boilerplate in developing SIP packages.

**f. Draft Understandable SIP Packages**

The Committee recommends that EPA delete the standard SIP language stating that the SIP action does not have precedential effect. Furthermore, EPA should standardize the citation forms in all SIP packages. In the past, the person developing the Federal Register package has frequently been faced with comments from different people as to the citation form to use in SIP packages. The SIP developer has wasted time changing citation form. Moreover, the public may be confused by different packages concerning the same type of SIP submittal but that contain different citation form. Therefore, the Options Committee recommends that standard citation forms should be identified and provided in the SIP Processing Manual.

The Background section of the Federal Register package should include enough information so that the public understands the basis for the action being taken. In general, that section should answer the following questions:

- what is the statutory requirement;
- what is the affected area;
- why does the statutory requirement apply to this area;
- when did the state take action to fulfill this requirement; and,
- what has been EPA's action on this submittal to this point.

However, the Background Section should neither be overly legalistic nor provide more information than is necessary for the public to adequately understand the nature of the State's action in relation to the statutory requirement.

The Options Committee recognizes that the process of ensuring that Federal Register packages are concise and understandable will be an ongoing process. Therefore, the Committee recommends that EPA explore further opportunities to shorten or clarify the boilerplate without removing any provisions required by law.

**g. Develop Checklists**

With the elimination of Headquarters review of SIP packages, SIPs may not always be reviewed by people with the strongest expertise in a subject area. The checklists, to be developed by the policy and legal experts in a specific SIP area, will help to guide both legal and policy reviewers in determining whether the issues of concern have been addressed and whether there are issues to raise through the consistency process. In addition, the checklist will lead the reviewers to the pertinent documents that should be considered when reviewing a specific SIP submittal. The Regional program should use the checklist in drafting the TSD for any action (or, if no TSD is prepared, in drafting the Federal Register notice). The TSD (or Federal Register notice) should address the items on the checklist and indicate the portion of the state submittal that addresses that item. The checklist will be essential to program management oversight of the SIP review process and, therefore, it should accompany the draft Federal Register package until it is signed by the Regional Administrator. At that time the Federal Register package will be sent forward to the Office of the Federal Register and the checklist should be returned to the SIP file.

In implementing this recommendation, the Options Committee recommends that, for SIP submittals already due under the Act, the checklists should be developed simultaneously with the related boilerplate. See Attachment 7. For requirements that are due in the future, checklists should be prepared and/or revised simultaneously with the promulgation of any regulations or the issuance of any guidance or policy memoranda. This will allow checklists to be available to Regions for reviewing draft State submissions that may be submitted prior to the statutory due date. At a minimum, checklists for future SIP requirements should be available no later than the statutory due date for State submission of such programs. Furthermore, each checklist item will identify the applicable statutory, regulatory, or guidance provision related to the item. In conjunction with developing these checklists the Committee recommends that the enforceability checklist be phased out and incorporated into the program-specific checklist as needed.

#### **h. Develop Clear and Timely Guidance and Regulations**

Because the recommended SIP review process effectively limits Headquarters involvement, Headquarters will have more time to devote to other SIP activities that are important to the timely processing of SIPs. In order for States to submit SIP submittals in accordance with the requirements of the CAA, timely EPA regulations and guidance is imperative. Moreover, these regulations and guidance documents are important for Regional review of SIP packages.

#### **i. Provide Regional Access to Information**

In order to effectively and efficiently review SIP submittals and prepare Federal Register notices, the Regions need to have access to guidance, regulations, boilerplate and checklists. This will require efficient distribution from Headquarters to the Regional program and counsel offices. From the Regions, this will require a SIP contact who will be the contact for Headquarters with respect to any new boilerplate, guidance or other processing information and who will be responsible for a centralized computer system within the Region. Boilerplate and checklists should be kept on a centralized computer system for easy retrieval by those persons drafting SIP packages. The Regional SIP contact will need to make sure the system remains current. Headquarters will distribute hard copies of these documents as well as send computerized versions by disk or a computer retrieval system. There also needs to be a process for informing the Regional offices in timely fashion of any revisions placed on a computer retrieval system. With respect to guidance documents, Headquarters should develop a computerized listing of specific types of SIPs, with cross references to documents, guidance, policy, and regulations used for each specific type of SIPs. As an alternative, if a system is available or could be developed, Headquarters could include the actual documents on such a system. Therefore, the system will either contain the documents or provide information where copies of the documents are located and how they may be retrieved.

#### **j. Eliminate Unnecessary Information Transfer**

A significant amount of paperwork is transferred between EPA and the Office of Federal Register. There may be some way to reduce the paper transfer and rely more on computerized transfer; such a procedure would ultimately save paper (consistent with the Agency's goal of reducing the amount of paper produced) and could ultimately speed up SIP Processing by eliminating reliance on the mail system and relying more on the instantaneous transfer of information via computer. Therefore, the Options Committee recommends that OAR in conjunction with the Office of the Federal Register explore ways to use paperless information transfer with respect to promulgating SIPs.

**k. Establish a Centralized Processing Fund**

Regional preparation of typesetting requests is a time-intensive exercise that produces little benefit in SIP processing. Establishing a centralized fund would eliminate that task, thereby simplifying the SIP processing procedure and allowing the Regions to devote those resources to other, more substantive, activities.

**l. Develop New Data System**

A new system that differs significantly from the current SIPTRAX system needs to be developed. The current system does not track "events" with respect to SIP processing and, therefore, does not provide the information that would be most helpful to Headquarters and the Regions. Such a system is necessary for several reasons, including (1) easy access to information for which we are held accountable by Congress; (2) easy access to information for purposes of developing litigation documents; and (3) determination by management of the status of implementation of the statute. The new events tracking system should include fields for the expected date of the Region's next Federal Register action on each SIP submittal and the type of action expected (e.g., direct final approval, proposed disapproval, etc.). For most SIP submittals, completion of this field would be optional. However, for some identified types of submittals, Regional Offices would be required to complete these fields at least 30 days prior to anticipated publication in the Federal Register. This will allow the field to serve as a fail safe "heads up" warning to other Headquarters offices on sensitive SIP actions. The Office of Mobile Sources has requested that enhanced I/M be the only mobile source SIP for which completion of these files be required.

**m. Develop Pre-Submittal Review Process**

The pre-submittal review stage provides the best opportunity for EPA to make meaningful comments on issues upon which the State must follow through. Therefore, the Options Committee recommends that the Regions work with each State to develop a process for review of draft submissions. Although many States do submit SIPs early and some Regions may have formal or informal systems for reviewing early submittals, a necessary recommendation for the revised processing system is that each Region develop an up-front process with each State for early review of SIP submittals. While the timing of such early submission may vary from Region-to-Region and between States, it is important that such review should occur at a point early enough for the State to make revisions in response to EPA's comments before making a final submittal to EPA. To minimize the likelihood that additional issues will be raised later, the Region should invoke the review of each relevant Regional Office, including Regional Counsel. At a minimum, the Region should establish an internal process for spotting and identifying issues to raise to Regional Counsel and any other relevant Regional Office. Headquarters assistance

should be available when the Region believes that a national issue has been raised or the Regional staff determines it does not have sufficient expertise.

It is important to work with a State early in the process in order to receive good SIPs and SIP revisions and to minimize the need to work with a State after submission to correct deficiencies. Each Region and each State will be operating under specialized constraints. Therefore, each Region will have the opportunity to establish procedures that best fit the circumstances of that Region and a specific State. For example, at least one Region has indicated that the public hearing stage is too late in the process for at least one of its States to make any significant changes to its regulations without restarting the State SIP process. This Region can develop a procedure for earlier review of that State's submittals. For other Regions and States, the period before the public hearing may be an adequate forum for identifying deficiencies in the SIP.

In negotiating with the States for a review of draft submittals, the Region should attempt to provide 60 days for EPA review. The 30-day period provided at the time of public hearing may not provide adequate time for EPA to complete a comprehensive review of the prehearing submittal identifying all deficiencies. Therefore, whether EPA review occurs at the public hearing stage or earlier in the process, the Regions should attempt to negotiate at least 60 days for review of the early draft submittal.

This recommendation will require cooperation from the States. Some States may not want to set up a formal presubmittal process. In other cases, it may not be feasible under the State adoption process. However, although some Regions may not be able to establish such an agreement with each of their States, each Region should set implementation of this presubmittal process as a primary goal, since early review will provide the best opportunity to work with the State in making timely revisions to its SIP submittal.

#### **n. Review Grandfathering Policy**

Regardless of the quality of the review or the time allotted, it will not always be possible to identify and resolve all issues at the early stages of review. To the extent it is legally feasible, there should be a procedure to grandfather State regulations when the State has worked with a Region to develop a regulation that meets Agency and Act requirements and policy changes or legal interpretations are further defined after the State has developed the regulation. EPA should review its grandfathering policy to determine what flexibility may be provided. Issues that are identified late in the process often produce strained EPA-State relationships and increased political involvement. Furthermore, these issues slow down the process of getting an approved SIP in place. However, all late changes in policy may not be able to be grandfathered due to Act requirements or air quality issues or other

reasons. In those cases, the Regions should work with the States to make the necessary changes to the SIP.

**o. Revise Completeness Criteria**

The completeness criteria were originally developed under the pre-amended Act. Although they were marginally revised shortly after the CAA Amendments were enacted, the revisions did not address the specific new requirements of the amended Act. Furthermore, continued application of the completeness criteria to new SIP submittals has highlighted additional problems with the existing criteria. OAR should simplify the administrative functions of the completeness criteria with an eye to limiting the required items to those necessary for EPA review of the State submittal. Currently, in order to meet the administrative criteria, States need to submit more paperwork than is needed for EPA review of the SIP submittal. Simplification of this process would be beneficial to the State, which would be required to generate and submit less paperwork, and beneficial to the Region, which would have less paperwork to sort through in reviewing the SIP. For example, with respect to the number of copies of the submittal that EPA needs to receive from the State (currently EPA's regulations require 5 copies), EPA should evaluate (in conjunction with the Information Transfer Workgroup) the acceptability of electronic filing in lieu of some or all of the hard copies currently required.

The technical criteria have proved to be problematic over the past several years; therefore, OAR should review and revise this portion of the completeness criteria to alleviate these problems. In conjunction with this effort, OAR should take the opportunity to clarify the distinction between completeness and approvability. There is currently a misconception that an unapprovable SIP should be found incomplete. To the contrary, completeness and approvability are two different concepts. Completeness should not be used as a mechanism to return unapprovable SIPs, unless they clearly are incomplete under the existing criteria.

**p. Develop Internal Review Process**

Under the revised system, the Regional offices will provide all aspects of the policy and legal oversight for a SIP submission. Because the additional cushion of Headquarters review is being removed, it is imperative that the relevant offices within the Region work together to develop a system for ensuring that all aspects of the SIP are adequately reviewed. Such a system should be in place prior to the time the Regional offices take sole responsibility for reviewing SIPs. These offices should work together to establish a system for reviewing SIP submittals and Federal Register notices. Because the ten Regional offices are so diverse, it is impossible to recommend one system that will work effectively for all ten offices. Therefore, the Committee recommends that each Regional Office work internally to

develop its own system, consistent with the recommendations made by this Committee.

At this point, Regional authority for SIP review is a new concept and the various offices within the Region may not be familiar with what resources will be needed for reviewing SIPs. To help alleviate this problem, each Region should be prepared to reevaluate its established system within one year from the time Regional offices take sole responsibility for reviewing SIPs.

**q. Establish System for Prioritizing SIPs**

The CAA requires that SIP submittals be approved or disapproved within 12 months of a determination that the submittal was complete. Because of the enormous quantity of SIPs required to be submitted under the amended Act, EPA, despite its best efforts, may be unable to process all SIPs within the statutory time frame. Therefore, the Regions should prioritize SIPs such that the majority can be processed within that statutory time frame. However, in prioritizing the SIPs, the Regions should consider other factors, such as air quality benefits.

**r. Retain Substance of Agreement with OMB**

The Options Committee does not recommend that any substantive changes be made to the agreement worked with OMB regarding the SIP packages that will be reviewed by that Office. However, since the current agreement refers to SIPs merely by location in the SIP Table and since this Committee is recommending that the SIP Tables be abolished, OAR should revise the agreement with OMB to clearly reflect those types of SIP submittals that need to be sent to OMB for review. For example, any reference to "Table 1" in the agreement should be replaced by a list of the specific type of SIP submittals listed in Table 1 as of the time of the agreement with OMB.

With respect to the processes of forwarding packages for review to OMB and for communications between OMB and EPA, the Options Committee recommends that these processes not be changed. The Options Committee believes that it is to the Agency's benefit to have OMB direct all of its communications through one office; that office will have the responsibility of ensuring that the correct persons in the Region address any issues raised by OMB. The current process reduces the possibility for miscommunication between EPA and OMB.

**s. Establish Annual SIP Processing Training Course**

With the delegation of SIP processing to the Regions, it will be important for OAR to establish and help fund an annual SIP processing training course to accomplish four goals.

1. to provide an opportunity to introduce those who are new to SIP processing to the system,
2. to provide an opportunity for Regions to share new and innovative strategies and concepts that they may have developed with respect to SIP processing,
3. to allow those people who have become experts with respect to certain issues to share their knowledge on a national basis with other people performing the same work, and
4. to provide an opportunity for those in the SIP processing field to meet those people in the other Regions and Headquarters with whom they will be dealing on controversial issues in order to foster communication among Regional personnel and between Regional and Headquarters personnel.

The course should be available to both Regional program and Regional Counsel. The course should focus, in part, on general principles of SIP processing. In addition, sessions on specific substantive and administrative issues will be an important part of each training session.

### **C. SIP Content (Code of Federal Regulations)**

#### **1. Identification of Customers**

One of the goals of the Options Committee was to develop one or more options for making SIPs, as presented in the Federal Register and the Code of Federal Regulations (C.F.R.), more understandable for all customers. The C.F.R. is the SIP repository because EPA incorporates SIP revisions into the C.F.R. by reference to the underlying State regulations. Part 52 of the C.F.R. includes subparts for each State; all States have an "identification of plan" section plus other provisions identifying related matters. The Identification of Plan section has a title of plan, a plan submittal date, and a list of plan revisions. Part 52 is the basic reference for anyone wanting to know what the approved SIP is for the State. The "customers" include the regulated community, public interest groups, the State and local agencies, the public at-large, and EPA's own staff.

#### **2. Pros and Cons of Existing Content (as related to customers)**

The process for approving SIPs by notice and comment in the Federal Register followed by publication in the C.F.R. is well established. This process provides the basic underlying mechanism for the enforceability of SIPs by the federal government. As such, this system cannot be changed without major changes in

the federal statutes. However, there are both pros and cons regarding the manner in which EPA has used this system over the years as well as opportunities for improvement. The "incorporation by reference" (IBR) system provides a distinct advantage for both EPA and the Office of the Federal Register in that it allows the Agency to very briefly summarize the SIP revisions that have been approved, while still giving these provisions regulatory effect. Without the IBR system, the C.F.R. would grow by many volumes because every plan item from each State would need to be printed in its entirety.

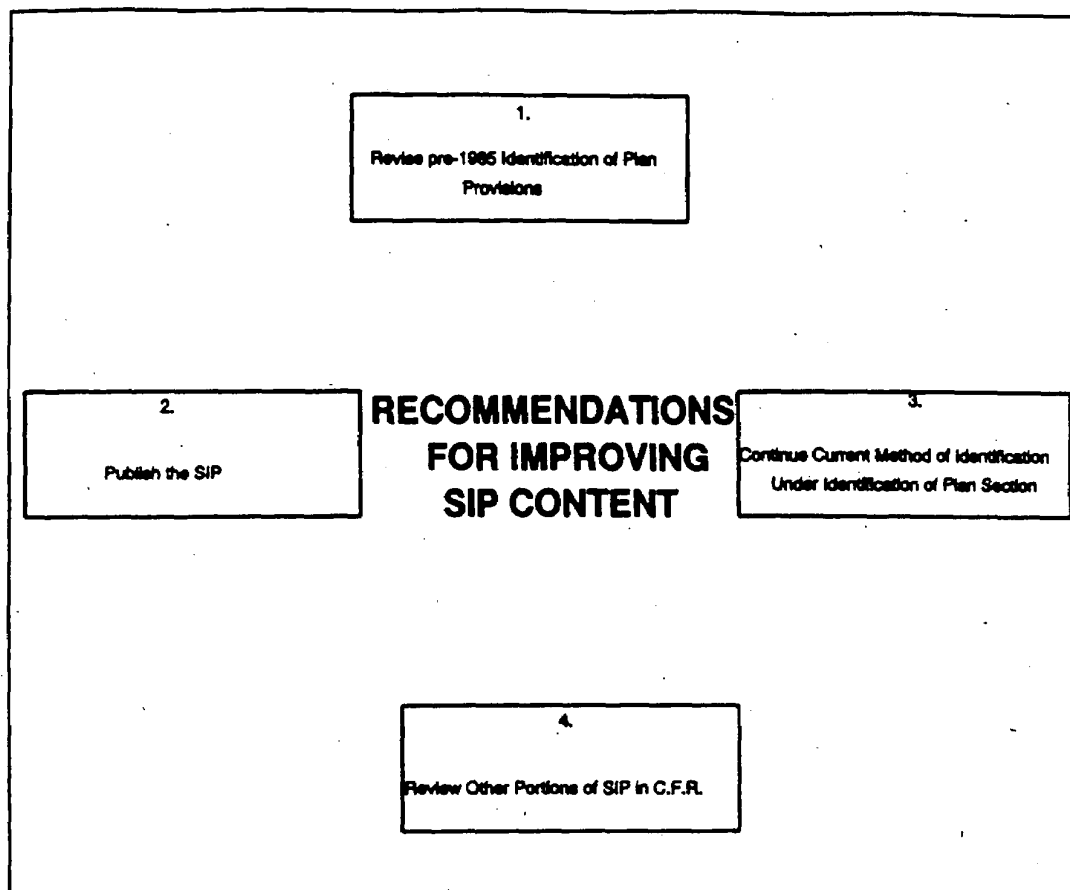
However, the IBR system does have disadvantages. The list of plan revisions that were made from 1972 through the late 1980's is not very specific concerning the rules and other materials actually incorporated into the SIP. As a result, it is almost impossible for the average reader to ascertain from the C.F.R. exactly what action EPA took in past years. In the late 1980's, however, EPA improved the IBR system. Since that time, the Regions have identified in a much clearer fashion the SIP material that is being approved into the SIP. For example, the Regions now specifically list the State regulations that are the subject of the action and the Office of the Federal Register requires that the effective date of the State regulation be stated in the IBR section. This procedure provides a much clearer picture to the customer regarding the regulatory portion of the SIP. Improvements could still be made in identifying nonregulatory SIPs (e.g., attainment demonstrations, emissions inventories, etc.) although these are less critical to understanding the existing SIP.

The sections other than the Identification of Plan section contain miscellaneous material that has been inserted into the SIPs in rulemaking actions over the years. This material may include compliance schedules, clarifying language regarding particular State regulations, promulgation of EPA requirements into the SIP, etc.. Much of this is material that is no longer relevant (e.g., "a State will request an extension until July 1, 1980") and that has no identifying date of promulgation. This characteristic makes much of the material outdated or incomprehensible.

### **3. Recommendations for Improving SIP Content**

#### **a. Revise pre-1985 Identification of Plan Provisions.**

This revision would clarify what federally approved rules and other parts the SIP contains and would greatly enhance the public's understanding of what is in the SIP and provide important benefits with respect to enforcement actions. It is imperative that this activity be carried out with great scrutiny and by someone knowledgeable about the approved SIP. Therefore, before such action is undertaken, adequate resources must be provided because such action should not be undertaken until sufficient resources can be devoted to the effort.



**b. Publish the SIP**

Section 110(h) of the 1990 amended Clean Air Act requires EPA to publish the SIP no later than November 15, 1995. This publication would also serve to greatly enhance the understanding of the SIP to all customers.

**c. Continue Current Method of Identification Under Identification of Plan Section**

The current identification of plan provisions that establish separate sections for material incorporated by reference and for material included as additional material are sufficiently clear to inform the public of what is contained in the SIP. However, the improvements made in the late 1980's must not be allowed to deteriorate. The regulatory portions of SIPs must be clearly identified in the IBR section. Rules and regulations should be identified not only by number, but by a descriptive title as well. Other material being approved into the SIP should be described in a manner that the average non-EPA reader can understand.

**d. Review Other Portions of SIP in C.F.R.**

Material in other sections of the State-specific portions of the C.F.R. should be updated. The material needs to be carefully reviewed and should be deleted if they are outdated or no longer relevant. In the future, any language inserted into these other sections should be linked to the particular SIP action in the "Identification of Plan" section or clearly state the circumstances under which EPA is promulgating the requirement. These provisions should also be dated for the sake of clarity.

### **III. CONSISTENCY COMMITTEE**

#### **A. Charge and Scope**

The charge of the Consistency Committee was to develop a process that could strike a balance between the need to have consistent national application of regulation and policy with the need for Regional flexibility to address local issues.

#### **B. Assumptions**

##### **1. Consistency Process**

There is disagreement within the Agency (both at the Regional and national program levels) whether consistency is necessary and/or desirable. To improve the way that existing regulations and policy are applied and to address areas where policy development is needed, the Committee developed a process that incorporates the following elements:

- a way to communicate within EPA the policy decisions that have an impact across Regions;
- a mechanism to identify issues that have national implications and that should be discussed openly with all Regions participating;
- a process that raises identified issues quickly to the appropriate people (i.e., Office Director, AA for OAR); and
- a mechanism to encourage Regions to be accountable to one another when an individual Region decides to propose implementation of an Alternative Interpretation to existing policy, etc.

Throughout the report, the Committee refers to two types of issues: Tier I and Tier II.

**Tier I:** Issues in which national consistency is considered important enough that alternative interpretations of binding statutes, regulations, etc., would require resolution either by the relevant workgroup or from Regional lead/facilitator process because such alternative interpretations could impact other Regions or set national precedents for a particular program(s).

**Tier II:** Issues in which an alternative interpretation of policy or guidance is unlikely to impact other Regions or set national precedent.

A Region is free to pursue this alternative without consulting other Regions or national program offices.

See Attachment 8 describing the tiered hierarchy of reviews.

Throughout the report the term "Alternative Interpretation (A.I.)" is used to denote a situation when a Region or national program office identifies a Tier I issue that may require a change in the way regulation, guidance or policy has been applied in the past. The term A.I. also includes situations when a policy has not yet been developed.

## **2. Implications of Lack of Consistency**

The Committee identified several implications of a lack of national consistency, including:

- concern about giving up program objectives in one Region and then having that decision reproduce itself in other Regions, ultimately making the program less effective (lowest common denominator effect);
- complications that occur in developing a legal theory or strategy in response to litigation when the statutes and policy are not interpreted and applied consistently across Regions; and,
- impact on Regional credibility with the States and local agencies when inconsistent application of regulation and policy occur.

On the other hand, in many cases, Regions want and need greater autonomy in interpreting and applying the CAA and related policy because political, economic and environmental conditions and concerns vary across the country.

## **C. Current system**

The existing system relies on Headquarters or the national program offices to ensure consistency through the SIP review process. With declining resources and shifting priorities, the consistent application of regulations and policy nationally has been uneven. With SIP streamlining, the evaluation of SIP submittals will reside with the Regional Offices. Consequently, there is a need to develop a process to encourage communication of Regional decisions in relationship to SIP submittals.

#### **D. Fundamental principles for new process**

Three fundamental principles underlie any process that seeks to balance consistency and flexibility. These principles are:

1. Alternative Interpretations (A.I.'s) be implemented through adequate consultation with affected parties;
2. A.I.'s be based on a defensible rationale; and
3. as Regions are empowered, they will take responsibility for the impact that their actions may have on another Region(s). The process described below relies on an honor system and accountability for those who do not follow established procedures to ensure consistency.

#### **E. Recommended Consistency Process**

The Consistency Committee recommends a system that brings together all stakeholders when a Tier I issue is identified and an A.I. is proposed. This process is summarized in the following flow charts showing a two-stage process for bringing issues forward to resolution, including an escalation process. Consistent with the timelines included in the flow charts, the process will include the following elements, see Flow Chart 1:

##### **First Level Negotiation on an A.I.:**

- Begin Process: When a tier I issue is identified, the initiating office writes a one-page description of the issue. The initiating Division or Office director will distribute the one-page summary to the identified contact list and facilitate the initial call. See Attachment 9.
- Initial Call: The initial call should explain the issue, determine the appropriate decision level given the time critical nature of the decision (existing workgroup, DD call etc) and explore possible options. Factors listed in Attachment 10--Guide, should be considered.

**Negotiations:** Negotiations will follow the initial call, via follow-up calls, meetings etc., to work out a compromise among the stakeholders.

**Final Call:** A final call is scheduled to either reach closure or decide to escalate. If closure is reached, the decision is distributed to all Regions and the decision is documented. Escalation will occur if a Division or Office

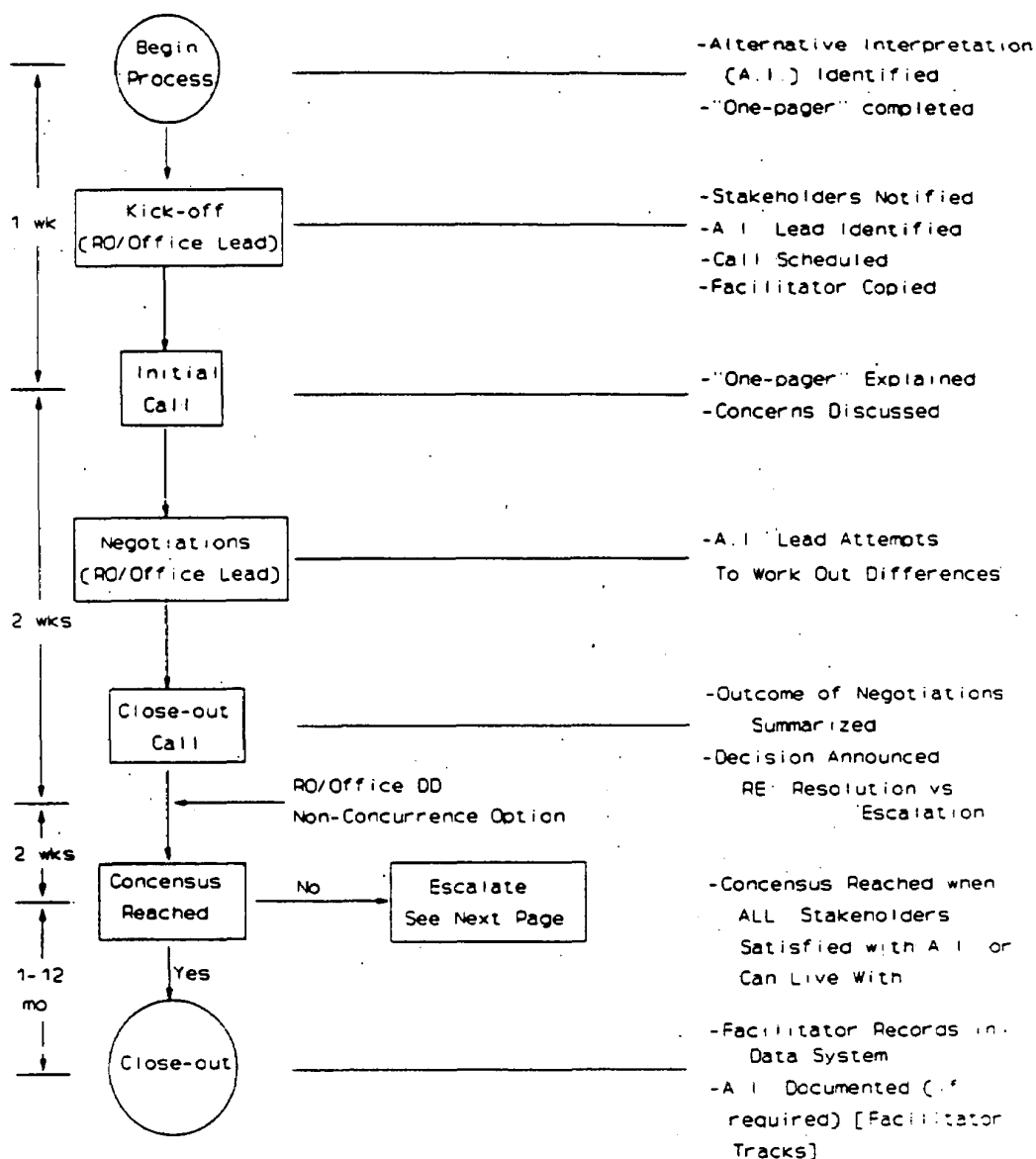
Director non-concurs in writing or if the Associate General Counsel for Air and Radiation indicates that a significant legal risk is associated with the proposed A.I.

**Facilitator:** EPA should designate an objective process facilitator within the Office of Air & Radiation (OAQPS desk officer) with the following responsibilities:

- ensuring that the consistency process is being followed and that all issues are addressed in a timely manner;
- ensuring that when there is nonconcurrence on a proposed Tier I Alternative Interpretation, any issue is elevated to the appropriate Agency senior managers for resolution;
- ensuring that all decisions on proposed Alternative Interpretations are properly documented and distributed.

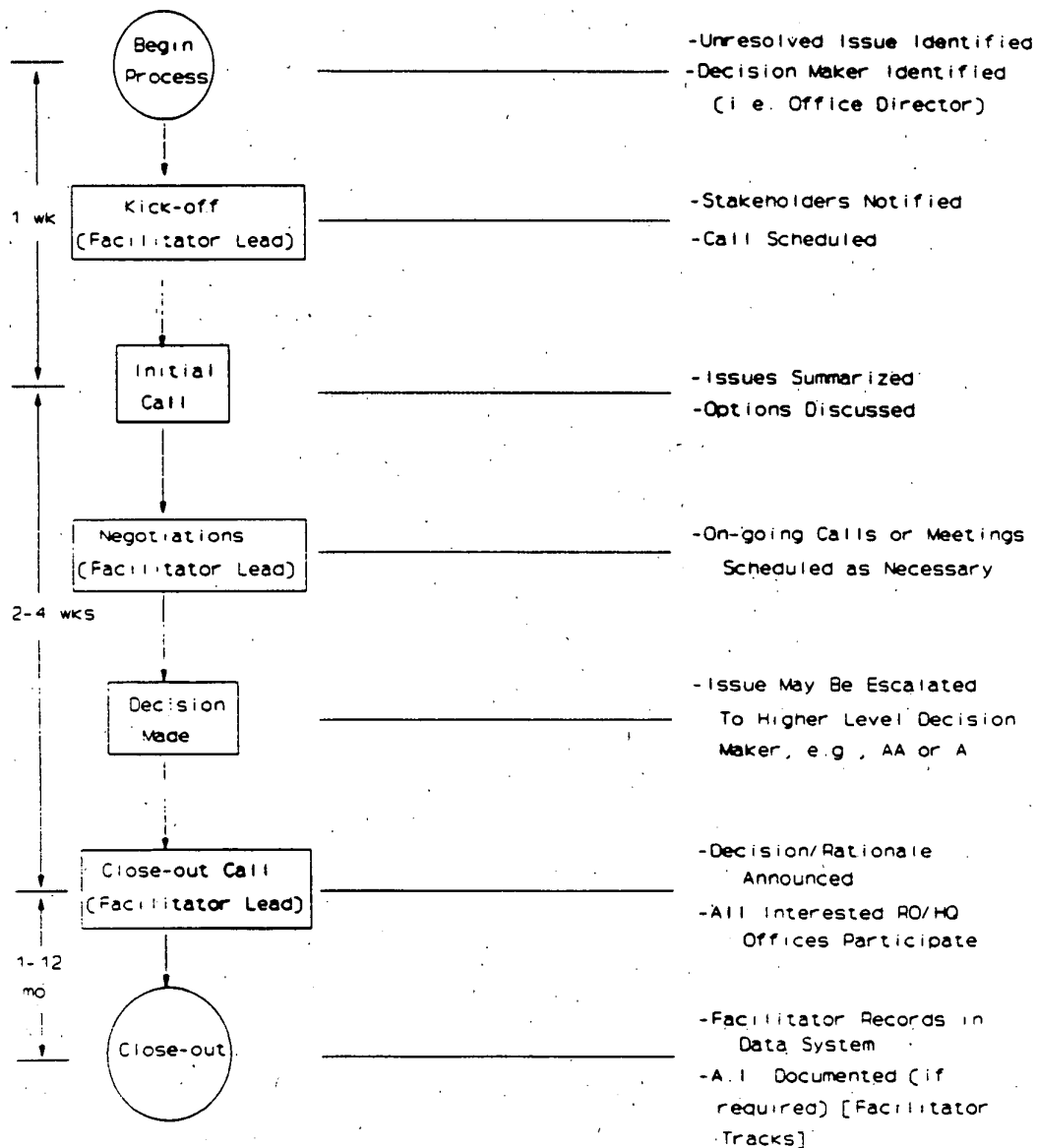
If the decision is to escalate, then the process outlined in Flow Chart 2 will be initiated. The steps are similar to those in Flow Chart 1; the process relies on the designated facilitator to ensure that all stakeholders are engaged, that a decision is reached and that the decision is distributed and documented.

ATTACHMENT II (Figure 1)  
 PROPOSED SIP CONSISTENCY FLOW CHART  
 RO/OFFICE LEAD/FACILITATOR SUPPORT  
 (TIER I ONLY)



## ATTACHMENT 11 (Figure 2)

PROPOSED SIP CONSISTENCY FLOW CHART  
 ESCALATED ISSUE/FACILITATOR LEAD  
 (TIER 1 ONLY)



#### **F. Corrective measures**

If it is apparent that, in a specific instance, a Region or national program office has not abided by the agreed upon system, the Division or Office Director from the deviating Region or office would be responsible for explaining to all other stakeholders why such an A.I. occurred, so that all stakeholders fully understand the implications and consequences of such an A.I. This would occur on a conference call, during which time a decision would be reached whether corrective action is necessary, i.e., a rescission of the action pursuant to 110(k)(6) or a change in the national policy to allow for the A.I.

#### **G. Data system and staff training needs**

To ensure that all stakeholders are sufficiently involved in the consistency process early on, and to enhance communications and facilitation throughout the process, the development of accompanying appropriate data bases and staff training will be necessary. Training will be needed not only for Regional office staff, including Regional Counsels, but also for those stakeholders at the Headquarters' level, including national program offices, at a minimum, OAQPS, OMS, OPAR and OECA.

In addition, it is necessary that the Regional and national program office personnel, involved in consistency issues, be able to determine when their interpretations of regulation, language, policy and guidance constitute a Tier I or Tier II Alternative Interpretation. In order to ensure that there is a level playing field on current policy, guidance, it is imperative that, through appropriate computerized databases, existing document compilations be updated for those programs for that compilations have been developed, and compilations of various documents be developed for those programs where it is lacking.

#### **IV. DATA COMMITTEE REPORT**

##### **A. Charge and Scope**

The charge of the Data Committee was to review the current SIPTRAX II data system, to analyze the needs of the customers, and to recommend improvements. The Committee also reviewed the docket systems of each Region to establish some consistency in the material available in the SIP files. Another charge of the Committee was to review the Regional files for the status of the availability of federally approved rules. The Clean Air Act, as amended in 1990, requires the Agency to identify federally enforceable State implementation plans by November 15, 1995, and every three years thereafter.

##### **B. Data Tracking**

###### **1. Current System**

The existing SIPTRAX II system does not meet the needs of its customers and therefore is not useful to the Regions, Headquarters, the general public, or the regulated community. Each Region maintains at least one separate tracking system because the current information in SIPTRAX II does not generate reports helpful to the Regions or Headquarters. Because the system is not functional, each time information is requested from GAO or Congress, Headquarters must poll the Regions for this information. The current system is on MAPS, which is frequently slow or difficult to access.

###### **2. Management/Tracking Systems**

There is a need for a national SIP tracking system that is a central repository for Regional SIP tracking information and a resource for Headquarters in answering inquiries from GAO and Congress. The Data Committee polled all the Regions regarding the elements to be tracked; the Committee also polled Headquarters regarding specific and essential core elements. Having identified these core elements, the Committee developed a method for tracking these elements under one system. The goal of the Data Committee was not only to have one comprehensive system that included data tracking and information transfer, but also to make the system more manageable and less costly. The Committee will not address the information transfer data recommendations of the Options or Consistency Committees. Consequently, the policy/guidance library, deviation process tracking, graphics feature and boilerplate library are not part of this proposal.

The essential features of the system are:

- one-time entry of data that would update the Finding/Sanctions data base;
- address MOARS inquiries;
- allow for the creation of management reports for both Regional and headquarters managers;
- provide Regional autonomy;
- be user-friendly;
- be cost-efficient;
- require minimal regional and/or headquarters maintenance support;
- require all changes be approved by a national work group;
- contain a screen for Headquarters required core elements; and,
- contain Regional screens to track as much information as each Region needs.

The system would allow the Regions to track and count SIP elements by Districts, counties, States or whatever is used at the Regional level in the format needed by Regional management and provide the information in the format required by Headquarters, e.g. by SIP element and nonattainment area. All Regions would be able to track all the SIP processing information that they now track on their own systems. This system would allow for the tracking of packages that are not considered SIPS, such as permit programs, Section 111(d) plans, etc.

A training course would be conducted for all Regional SIP coordinators or a satellite course could be presented for all Regional personnel. A contractor would develop and design the systems with the SIP national workgroup along with input from the other Regional offices.

### 3. Centralized System (OPTION I)

The two systems discussed in this section of the report are basically the same except for the location of the system, whether Headquarters or Regions will maintain the system, and the cost of developing the system. Both systems would have the essential features listed above.

The centralized system would be a system located in Headquarters and managed and maintained by Headquarters staff. Changes to the structure of the system would only be implemented by the lead person (Headquarters or Region) but would require approval by the SIP work group. All Regions would be using NETWORK to get on the system instead of MODEMS. This would make getting onto the system faster and more efficient than MAPS.

#### **4. Distributed System (OPTION II)**

The distributed system would be a LAN-based system located on each Region's LAN. All ten systems would be identical; the screens would be the same as in the centralized system. Information would be input by the Regions; but the core data elements required by Headquarters would be uploaded to Headquarters, probably via MAPS, on a weekly basis. The Findings and Sanctions data base would also be located in the Regional offices and would need to be uploaded to the Headquarters data base. Having the system located on the Regional LAN systems would assure the Regions of easy access but would require some maintenance from Regional LAN experts at the Regional level. Regional contacts would need to have upgrades in hardware because this system would be designed using WINDOWS.

#### **5. Data Elements for Tracking System**

All items listed in Attachments 11, 12 and 13. The items marked with an "H" will be required by Headquarters.

#### **6. Recommendations**

The Committee recommends Option II, the distributed system, because the Regions will have access to their own tracking systems at all times; the system will be maintained at the Regional level where the information is used most; there will be more flexibility at the Regional level, and the system will alleviate the Regions' having two tracking systems. For Headquarters, the system will result in less time spent on managing the system while making the information needed to generate management reports available. The Committee would also recommend that after the system is designed that one work assignment be put in place to support all ten Regions in handling maintenance problems.

### **C. SIP Docket Files**

#### **1. Background**

For any rulemaking action, such as an action on a SIP package, the Agency needs to maintain a file of the information relied upon in taking the action. Such

information should be available to the public. The Data Committee polled the Regional Offices to discern what is currently being kept in the record, what is being excluded, and how the public can gain access.

While the individual responses were varied, there was a consensus that certain items such as the official State submittal and Designee's cover letter, EPA's rulemaking notices (both proposed and final), public comments and responses thereto, and the Technical Support Document (TSD) should be kept in the public docket file. Some Regional Offices included some presubmittal correspondence (such as EPA comments on the State's proposed action) in the official docket file, while other EPA offices maintained a separate internal file on presubmittal correspondence.

At the same time, half of the Regional Offices routinely included the Action Memorandum in the SIP docket file. The Regional Offices that excluded available Action Memoranda did so on the basis that they represented the internal deliberative Agency process and only a recommendation for Agency action. The Regions were also split over the inclusion of specific evaluations of completeness and enforceability, although a majority of the Regions did include their analysis in the public docket files.

The mechanism by which the Regional Offices released information to the public or provided the public the opportunity to review the docket file also differed. Some only released docket file information upon receipt of a Freedom of Information Act (FOIA) request, while others sent the material out upon receipt of a written request. Some Regional Offices required a 24-hour advance notice to review the files, while others did not. Some offices charged for the duplication of materials while others did not. Most Regional Offices did not release any portion of the docket file to the public (including the initial State submittal) until EPA published its initial rulemaking action (NPR, DFRN) in the Federal Register.

All of the Regional Offices maintained hard copies of the State Submittal in a dedicated storage area. Some Regional Offices archived the files (due to space limitations), while others physically kept all records within the office.

## **2. Recommendations: Official Docket File**

The Data Committee reviewed these responses and consulted with OGC and the Agency Records Manager. Based on these discussions, and in order to maintain some level of consistency among the Regional Offices in the maintenance and availability of EPA SIP revision decisionmaking records, the Data Committee makes the following recommendations:

**a. Core Docket File should consist of certain documents, which should be indexed**

The following documents should be in the core docket file [an "\*" indicates Agency generated documents]:

- Cover letter - Governor
- Submittal
- Completeness checklist \*
- Completeness determination letter \*
- Official correspondence and supplemental information
- Approvability checklist \*
- Any technical documents relied upon in determining approvability
- TSD \*
- FRN - proposal and final [manuscript and published copy] \*
- Public comments received
- EPA analysis of comments \*
- Office of Federal Register cover memo with IBR attachments.

**b. Excluded EPA generated documents**

The following documents should be excluded from the core docket file:

- Presubmittal correspondence
- Internal memoranda and records of telephone calls
- Action memorandum

Any other documents being considered for inclusion or exclusion must be reviewed by the appropriate Office of Regional Counsel.

**c. Public access guidelines**

The docket file can be accessed by the public without a request pursuant to the Freedom of Information Act. The Agency can require advance notice of 24 hours, which is consistent with the Agency's policy on the release of docket files associated with Agency-promulgated regulations. Requests for a copy of the official docket should follow Agency policy on duplication costs.

**d. Timing of accessibility of documents**

- Completeness Determination: after letter is sent out
- Substantive analysis: after initial publication in the Federal Register (NPR, DFRN)
- State submittal: same as above.

- Public comments: as of the receipt date.

- e. **Storage of material for public docket**

The Data Committee recommends that the decision regarding storage of docket file documents, including the archiving of historically useful but regulatorily outdated material, be left up to the individual Regional Offices.

- D. Section 110(h)**

- 1. Background**

Section 110(h) of the Clean Air Act, as amended in 1990, requires the Agency to identify federally enforceable State implementation plans by November 15, 1995, and every three years thereafter. The Data Committee surveyed each Regional office to find out the status of the Regional offices in compiling federally approved rules. Most Regions have completed or are working on the compilation of these documents. One outstanding issue is whether this requirement includes the non-regulatory portions of the SIPs as well as the regulatory portions.

- 2. Recommendation**

Since this is a requirement of the amended CAA and all Division Directors are committed to completing, at a minimum, the regulatory portions of the SIPs for each State in their Region, the Committee recommends that one notice be published in the Federal Register for all Regions by November 15, 1995. This notice will make available to the public all federally approved rules for each State. A contact person for each Region should be identified in the notice.

### Attachment 1: SIP Elements Inventoried by Backlog Committee

SIP Element	SIP Attachment	Total	Total Backlog	% Backlog
VOC RACT Fixups	II	98	81	83%
PM-10 SIPs	II	46	32	70%
SO <sub>2</sub> SIP	II	4	2	50%
NSR for PM-10	II	43	11	26%
NSR Rules (VOC/NOx)	II	114	25	22%
Stage II	II	11	5	45%
VOC RACT Catchups	II	92	16	17%
VOC RACT (New & Expanded)	II	31	17	55%
VOC Non-CTG RACT	II	34	12	35%
CO NSR (> 12.7 ppm)	II	14	3	21%
Nox RACT SIP:				
182(f)	II	7	0	0%
SIP SUBMITTAL	II	67	4	6%
Emissions Statements	II	113	70	62%
CO Attainment Plan (> 12.7 ppm)	II	11	2	18%
CO Contingency Plan (> 12.7 ppm)	II	10	0	0%
O <sub>3</sub> Emission Inventory-VOC/Nox/CO	II	91	54	59%
CO Emissions Inventory	II	23	13	57%
TCMs to Offset Growth	II	13	2	15%
VMT Forecast (CO > 12.7 ppm)	II	9	4	44%
Employee Trip Reductions	II	14	3	21%
Clean Fuel Fleets/Opt out	II	1	0	0%
Oxygenated Fuel Program	II	20	16	80%
Sm Business Assistance Prgm SIP	II	24	17	71%
Lead SIP	II	8	0	0%
CO NSR (< 12.7 ppm)	II	21	5	24%
15% Plan (VOC)	II	12	0	0%
I/M SIPs (O <sub>3</sub> & CO)				
I/M - Ozone	I	26	1	4%
I/M - CO	I	7	2	29%
CO Contingency Measures(< 12.7ppm)	II	8	0	0%
PM-10 Contingency Measures	II	19	1	5%
PAMS	II	19	0	0%

SIP Element	SIP Attachment	Total	Total Backlog	% Backlog
Ozone Attainment Plan for IntraState Moderate Areas	II			
Clean Fuel Fleets SIP (O3 & CO)	II	6	0	0%
Subtotal CAAA SIP Elements		1016	398	39%

### Attachment 2: Other SIP Elements

Other SIP Element	SIP Attachment	TOTAL	Total Backlog	% Backlog
Redesignations	II	20	3	15%
Maintenance Plans	II	14	1	7%
Visibility Protection Plan SIP	I	5	4	80%
111(d) Plans	III	10	8	80%
New Source Review/PSD	III	50	11	22%
Recodifications	III	10	3	30%
Source Specific SIP Revisions	III	23	11	48%
Other		683	423	62%
Subtotal Other SIPs		815	464	57%

### Attachment 3: Top 12 States with Active SIP Elements Required by 1990 Amendments (Total Inventory)

State	# of Act Elements	Percentage
California	174	17.1%
Pennsylvania	132	13.0%
New York	55	5.4%
Texas	48	4.7%
New Jersey	45	4.4%
Ohio	40	3.9%
Colorado	39	3.8%
Arizona	30	3.0%
Utah	28	2.8%
Connecticut	27	2.7%
Maine	27	2.7%
New Hampshire	27	2.7%
All Others	344	33.9%
Total	1016	100.0%

**Attachment 4: Top 11 States with Active SIP Elements in the Backlog  
Required by the 1990 Amendments**

State	# of Act Elements	Percentage
California	81	20.4%
Pennsylvania	80	20.1%
Texas	30	7.5%
Colorado	20	5.0%
Virginia	16	4.0%
Arizona	16	4.0%
Washington	15	3.8%
New Hampshire	14	3.5%
Kentucky	13	3.3%
New Jersey	12	3.0%
Connecticut	10	2.5%
All Others	91	22.9%
Total	398	100.0%

**Attachment 5: Top 12 States with "Other" Active SIP Elements  
(Total Inventory)**

State	# of Other Elements	Percentage
California	317	55.0%
Arizona	45	7.8%
Tennessee	19	3.3%
Texas	19	3.3%
North Carolina	14	2.4%
Virginia	14	2.4%
Kentucky	13	2.3%
Ohio	13	2.3%
New Jersey	12	2.1%
Nevada	11	1.9%
Pennsylvania	11	1.9%
Florida	10	1.7%
All Others	78	13.5%
Total	576	100.0%

**Attachment 6: Top 8 States with "Other" Active SIP Elements  
in the Backlog**

State	# of Other Elements	Percentage
California	153	55.2%
Arizona	36	13.0%
Virginia	11	4.0%
Kentucky	11	4.0%
Nevada	9	3.2%
Pennsylvania	7	2.5%
North Carolina	7	2.5%
Texas	7	2.5%
All Others	36	13.0%
Total	277	100.0%

### **Attachment 7: Options Committee Checklist**

The Options Committee recommends that boilerplate Federal Register language and substantive policy and legal checklists be created (or revised) for specific types of SIP submissions that have come due under the Clean Air Act. The Options Committee recommends that for certain types of SIP submissions that have already come due under the Act boilerplate and checklists be prepared (or revised) in accordance with the schedules set forth below. For requirements that have not yet come due under the Act, the Options Committee recommends that Headquarters, with input from the Regions, prepare boilerplate Federal Register language no later than 3 months following the statutorily-required submittal date and that checklists be prepared and revised each time the Agency issues guidance or regulations relevant to a specific submittal. In any event, a checklist should be available no later than the date a submittal comes due under the Act.

#### **Boilerplate and checklists to be prepared within 3-4 months of adoption of Recommendations**

Ozone 15 percent plan  
 New Source Review  
 VOC RACT catch-ups  
 CO attainment demonstrations and contingency measures  
 Enhanced and Basic I/M  
 Lead SIPs  
 PM<sub>10</sub> contingency measures  
 Transportation conformity  
 NOx RACT rules

#### **Boilerplate and checklists to be prepared within 6 months of adoption of Recommendations**

TCMs to offset growth  
 Redesignation/maintenance plan  
 1994 Ozone attainment demonstrations  
 Post-1996 VOC/NOx reductions  
 111(d) plans  
 General conformity

#### **Boilerplate and checklists to be prepared within 9 months of adoption of Recommendations**

PM<sub>10</sub> SIPs  
 SO<sub>2</sub> SIPs

**No Need for New or Revised Boilerplate**

Emission Statements

VOC RACT fix-ups

Stage II

Emission inventories

VMT forecast

ETR/ECO

Oxyfuels

Small Business Assistance programs

PAMS

## **Attachment 8: Description of Tiered Hierarchy of Reviews**

**Description:** The separation of issues into Tiers will provide the Regions and national program offices with a framework for deciding when an issue needs to be raised to a broader forum. The "Tiered Hierarchy" separates issues into two Tiers, with Tier I being the universe of issues that initiates consultation outside of an individual Regional office.

**Tier I:** Issues where national consistency is considered important enough that alternative interpretations of binding statutes, regulations, etc., would require resolution either by the relevant workgroup or from Regional lead/national office facilitator process because such alternative interpretations could impact other Regions or set national precedents for a particular program(s).

**Tier II:** Issues where an alternative interpretation of policy or guidance is unlikely to impact other Regions or set national precedent. A Region is free to pursue this alternative without consulting other Regions or national program offices.

The following historical examples, are meant to give the flavor of what the Consistency Committee felt were representative of the two Tiers. The Tier I examples are taken from issues that have been subject to recent conference calls involving Regional and national program office staffs.

### **Tier I.**

1. Can a nonattainment area be redesignated to attainment without a fully approved NSR program that meets the requirements of the '90 Amendments?
2. Does an approvable SIP submittal have to contain an emission limit or control requirement that establishes RACT or is it sufficient to have a process defined in a SIP by that RACT is determined with the RACT limit or control requirement specified in a permit?
3. Does an entire nonattainment area need to have "clean" air quality data, for a portion of the area, to be able to have its redesignation request found complete?
4. Can a redesignation request be found incomplete on grounds of inadequate public process?
5. Can an exemption from the NO<sub>x</sub> portion of the conformity requirement be granted based on an area having attained the standard?
6. Can 100 percent credit be given for clean fueled vehicles under the ECO/ETR program?

7. Do  $PM_{10}$  SIPs that do not demonstrate attainment have to address the RFP requirement in the Act?

8. Can a new nonattainment problem be addressed through means other than a SIP call or formal designation as a nonattainment area?

**Tier II.**

1. Approving consultation procedures in transportation conformity SIPs and definitions of "regionally significant".

2. Approving a State's 5 percent determination (a deviation from a CTG limit based on a showing that, for a specific source category, the emissions resulting from the deviation are negligible).

3. Approving "good faith efforts" tests in ECO SIPs.

4. Approving a program design for enhanced I/M that differs from the model I/M rule, provided the program meets the performance standard.

**Attachment 9: Sample Request for Alternative Interpretation**

**REQUEST FOR ALTERNATIVE INTERPRETATION**

ISSUE/POLICY IN QUESTION:

DESIRED ALTERNATIVE INTERPRETATION:

BACKGROUND:

JUSTIFICATION FOR ALTERNATIVE INTERPRETATION

LIKELY IMPACT(S):

TIMEFRAME FOR RESPONSE:

SUBMITTED BY:

## **Attachment 10: Guide to Developing Options When An Alternative Interpretation (A.I.) is being Proposed and Considered**

This document was designed as a guide in assisting stakeholders on how to proceed in determining, through options, how to formally or informally address Alternative Interpretations to established regulation, language, policy, or guidance.

1) Determine whether the A.I. relates to regulation or policy (nonbinding interpretation of statute or regulation), and:

a) If it the A.I. departs from clear language of regulation, decide whether to:

- propose to amend regulation to allow for the proposed A.I.,
- advise RA not to proceed with A.I., OR,
- propose the A.I. without amending the regulation (OGC would advise against this option).

In any event, it is recommended that any such decision only be made by upper-level HQ management and the appropriate RA(s).

b) If the A.I. departs from policy, decide whether the A.I. can be reconciled with the general policy by finding an "anchor" in the statute that accommodates both the policy and the A.I.; for example, perhaps the policy could be altered to allow that type of Alternative Interpretation even while retaining the basic statutory interpretation underlying the policy (consistency does not require identical results).

If no such justification for the proposed Tier I A.I. can be found, decide whether to:

- change the policy to match the A.I.,
- advise the RA not to proceed with the proposed A.I., OR,

- (b)(5) Attorney-Client Privilege

[REDACTED] In any event, the decision should be made by upper-level HQ management and the appropriate RA(s).

2) Assign specific offices with the task of implementing the decision.

### Attachment 11. SIP Processing Information Tracked by Regional Computer Systems

Based on information received August 31, 1994

[illegible]

	(C)lipper, (W)IP 5.1, (D)Base, (L)otus	C	W	D	W	D	D	W	LD	C	L
#	Name Region	1	2	3	4	5	6	7	8	9	10
27.	QAQPS ID	X		X1		X1	X		X1	X	X
28. H	Review Action Type (P/F/O)	X		X		X2					
29. H	Review Table	X		X		X2	X		X	X	X
30. H	Review Processing Type (PP/SP/LN/DF)	X	X				X				
31. H	Approval Status	X		X		X2		X		X	
32. H	LN Issued			X							
33.	RACT Fix-Up Flag			X						X	
34.	Number of RACT Fix-Up Rules			X							
35.	Number of SIP Elements			X							
36.	Location of Action (RO/HQ)					X	X				
37. H	Remarks			X		X	X		X	X	
38. H	FR Citation	X		X			X			X	
39.	Cols in Published FRN to nearest 0.2						X				
40.	Cost Factor Used in Calculating Published Costs						X				
41.	Estimated Cost of Published Notice						X				
42. H	Withdrawn Citation			X							
43.	Publicity Flag			X							
44.	Active/Inactive			X							
45.	Docket Number			X			X			X	X
46.	DCN: APCD-Rule-Cat-Adopt									X	
47.	Document Control No.								X		
48.	Priority Ranking Factor			X							
49.	Division Org. Assigned To SIP Rev.			X							
50.	Billing Code			X							
51.	Specific HQ Office Currently Reviewing						X				
52.	6T-AP Work Plan Number						X				
53.	Texas Amendment Number						X				
54.	CAA Requirement Section						X				
55.	CFR Requirement(s) Section(s) or Subpart						X				

	(C)lipper, (W)P 5.1, (D)Base, (L)otus	C	W	D	W	D	D	W	LD	C	L
#	Name                      Region	1	2	3	4	5	6	7	8	9	10
56.	Record/Total Records for Docket File Number						X				
57.	Division (6T) File Code						X				
58. H	MOA Requirement Flag						X				
59.	Bubble Flag						X				
60.	Code To Identify Unique Situations						X				
61.	TSD Prepared Flag						X				
62.	Parallel Processing Flag						X				
63.	State Regulations Affected						X				
64.	CFR Part 52 ID Number for Final Rules						X				
65.	CFR Sections Revised Including Part 52 ID Number						X				
66.	Expect More Info From State Flag						X				
67.	Number of Typed Pages						X				
68.	Typesetting Request Docket Control #						X				
69.	Typesetting Request Account#						X				
70.	Typesetting Cost Factor \$/est. cols						X				
71.	Typesetting Estimated Cost (EFC x est. # cols.)						X				
72.	No. Days From Receipt to Sent to HQ								X		
73.	No. Days From Proposed Sent to HQ to Publish								X		
74.	No. Days From Proposed to Final Sent to HQ								X		
75.	No. Days From Final Sent to HQ to promulgated								X		
76.	Min/Max/Avg of No. of Days								X		
	Calculated Above										
77.	Committal Flag					X					

X1 = Whole SIPTRAX ID is consolidated into one field

X2 = Region 5 system has one field (curection) that holds the action type, table, and approval status.

X3 = Combination of some or all of the state, NAA, pollutant and requirement information as part of the description.

## Attachment 12. Events Dates Tracked by Regional Systems

Based on information received August 31, 1994

	(C)lipper, (W)IP 5.1, (d)Base, (L)otus	C	W	D	W	D	D	N/A	LD	C	L
#	Event                      Region:	1	2	3	4	5	6	7	8	9	10
1.	Draft Received	X									
2.	Draft Sent to ORC	X									
3.	State Requests Comments for Draft	X									
4.	Comments Sent to State for Draft	X									
5.	Draft Returned From ORC	X									
6.	Target Date for Draft Return (ORC)	X									
7.	Attorney Comments for Draft	X									
8.	Public Hearing for Draft	X									
9.	Draft TSD to SC	X									
10.	Draft TSD to SC Target	X									
11.	Draft TSD Returned From SC	X									
12.	Draft TSD Returned From SC Target	X									
13.	Finalized TSD	X									
14.	When TSD Expected to Be Ready/Target	X									X
15.	For complex, controversial SIP, target decision date from mgmt										X
16.	Completion of internal reviews, where necessary										X
17.	Draft NPR/FRN to SC	X		X							
18.	Draft NPR/FRN Due to SC	X		X							
19.	Draft NPR/FRN Returned From SC	X									
20.	Draft NPR/FRN Returned From SC Target	X									
21.	NPR/FRN Sent to BC			X							
22.	NPR/FRN Sent to BC Target			X							
23.	NPR/FRN Draft Sent to ORC	X		X							
24.	NPR/FRN Draft Due to ORC	X		X							
25.	NPR/FRN Draft Returned from ORC	X		X							
26.	NPR/FRN Draft Returned from ORC Target	X									
27.	NPR/FRN Circulated	X									
28.	NPR/FRN Circulated Target	X									
29.	NPR/FRN Due to HQ			X			X		X		

	(C)lipper,(W)IP 5.1,(d)Base,(L)otus	C	W	D	W	D	D	N/ A	LD	C	L
#	Event                      Region:	1	2	3	4	5	6	7	8	9	10
30.	NPR/FRN Sent to HQ	X		X	X		X		X		X
31.	HQ Returned Pkg						X				X
32.	NPR/FRN Sent to RA	X		X	X						
33.	NPR/FRN Signed by RA	X		X	X						
34.	NPR/FRN Due to FRO			X							
35.	NPR/FRN Sent to FRO	X		X	X						
36.	NPR/FRN Publish Target	X		X	X						
37. H	NPR/FRN Published	X		X	X		X		X	X	X
38. H	Direct Final Published								X		
39.	Withdrawn Date			X							
40.	LN			X							
41.	State Adopted Regulation						X				
42.	Last Submittal Received From State						X				
43.	RO returned SIP Revision Pkg. to State						X				
44.	Typesetting Request Mailed to HQ						X				

### Attachment 13. Findings/Sanction Information Tracked by Regional Systems

Based on information received August 31, 1994

	(WordPerfect 5.1.(Lotus spreadsheet		W	W		W			W	L		
#	Name	Region:	1	2	3	4	5	6	7	8	9	10
1.	State		X	X			X			X		
2.	NAA Name						X			X	X	
3.	Agency (if more than one)										X	
4.	Reason For Findings Letter		X								X	
5.	Pollutant		X1	X1			X				X	
6.	Requirement		X1	X1			X				X	
7.	Classification						X				X	
8.	Due Date of Requirement		X	X							X	
9.	Sanction Clock Start Date (Findings Letter)		X	X							X	
10.	First Sanction Off/On Flag		X									
11.	Second Sanction Off/On Flag		X									
12.	9 Month Projected Sanction Date										X	
13.	18 Month Projected Sanction Date			X			X			X	X	
14.	FIP Due Date		X							X	X	
15.	Submittal Flag			X								
16.	Expected Submittal Date									X		
17.	Submittal Date			X						X	X	
18.	Completeness Determination Flag			X								
19.	Completeness Determination Date			X								
20.	Anticipated Action (Approval)									X		
21.	Approval Status										X	
22.	Approval Date										X	
23.	Date of Rulemaking Action (P/F)			X								
24.	Send to HQ Date									X		
25.	Discussion		X							X	X	
26.	Expected NFR Date SIP/FIP									X		
27.	CAAA Citation										X	
28.	Submittal Status (submitted; not submitted, complete by default; complete, no hearing; draft; incomplete)										X	
29.	Problem Indicator Flag						X				X	

	(WordPerfect 5.1.(Lotus spreadsheet		W	W		W			W	L	
#	Name Region:	1	2	3	4	5	6	7	8	9	10
30.	On Schedule Flag					X					
31.	FIP in Preparation Flag					X					
32.	Sanctions Process Initiated Flag					X					
33.	Final EPA					X					
34.	Total Requirements By State By Due Date and Grand Total		X								
35.	Total Number % Received By State On-Time By Due Date and Grand Total		X								
36.	Total Number % Received By State Late by Due Date and Grand Total		X								
37.	Total Number % of Running Clocks By Due Date and Grand Total		X								
	(C)lipper, (W)P 5.1.(d)Base,(L)otus	C	W	D	W	D	D	N/A	LD	C	L
#	Event Region:	1	2	3	4	5	6	7	8	9	10
40. H	LN Date			X							
41.	State Adopted Regulation						X				
42.	Last Submittal Received From State						X				
43.	RO returned SIP Revision Pkg To State						X				
44.	Typesetting Request Mailed To HQ						X				

X1 = some combination of pollutant/requirement in the same field of information

## Attachment 14. Workplan for the SIP Improvement Workgroup

Com.	ACTION STEPS	RESPONSIBLE OFFICE	ELAPSED TIME IN DAYS	CHANGE IN FTES/ FY	\$(1000)
Actions steps which should occur once at the beginning of the new SIP Processing Procedures					
D <sup>1</sup>	Design of Distributed Data System by Contractor (Phase I)	Regional/HQs Steering Team	~ 100 days (3.5 months)	0.7	\$125 to 225 <sup>2</sup>
	Pilot project w/ Initial data	1 Regional Office	15 days		
	Data Input	Contractor/Regions	60 to 90 days		
	Training (manuals, tutoring)	Regional/HQs Steering Team and each Regional Office	30 days		
O	Issue memorandum for beginning new process	OAR	14 days <sup>3</sup>	OAR - minimal	
	Conference call with Division Directors/Branch Chiefs/SIP contacts to discuss the new SIP process procedures	OAQPS	30 days	none	
O	Establish System for Prioritizing SIPs	Reg.	120 days	None - 1	

<sup>1</sup>This column identifies the committee name by initials: Data (D), Consistency (C) and Options (O).

<sup>2</sup>This range was given by the contractor as an initial cost estimate for the initial centralized system. The revised system the Data committee is recommending is less comprehensive than this initial system. Additionally, a regional system will be used as initial model. Therefore, we may be able to estimate the cost of the system as \$125,000 for the initial system (Phase I) and 100,000 for the Phase II of the system which will include a centralized area for boilerplate language and alternative interpretations.

<sup>3</sup>OAR may choose to discuss this revised process with STAPPA and the Regional Administrators prior to the issuance of a memorandum.

Com.	ACTION STEPS	RESPONSIBLE OFFICE	ELAPSED TIME IN DAYS	CHANGE IN FTES/ FY	\$(1000)
O	Eliminate Unnecessary Information Transfer to FR Office	Regions OAR	Effort to establish - 180 days	Effort to work w/FRO - minimal	
O	Develop Presubmittal Review Process	Regions	180-360 days	To establish Regions - .2	
O	Reach agreement with OMB	OAR	180 days	OAR - minimal	
O	Establish/Conduct SIP training Course	All	180 days	All - 1	16 - 18
O	Develop Boilerplate and Checklists	OAR OGC Regions	Initial effort - 270 days.	OAR - .5 OGC - .5 Regions - .2	
O	Revise completeness criteria	OAR OGC Regions	360 days	OAR - .5 OGC - .1 Regions - .2	
C	Implement the Tier I/II SIP consistency Process including "1 pager", and as outlined in Tier I Process Flow Chart	Regional Offices OAR	No later than date of formal SIP Processing Delegation to Regional Offices		
C	Designate OAR Process Facilitator (recommend OAQPS "desk officer").	OAR	No later than date of formal SIP Processing Delegation to Regional Offices	OAR - 1*	none

\*To be accomplished through collateral assignments of OAQPS "desk officer(s)"

Com.	ACTION STEPS	RESPONSIBLE OFFICE	ELAPSED TIME IN DAYS	CHANGE IN FTEs/ FY	\$(1000)
C	Provide for data needs to facilitate consistency Process and resolution documentation. <sup>a</sup>	OAR	No later than date of formal SIP Processing Delegation to Regional Offices	See footnote #5	See footnote #6
Ongoing actions once the new SIP process is established and implemented					
O	Increased Role of Regional Counsel	Regions		ORC - 14 <sup>a</sup>	
O	Eliminating Standard HQ Review of SIP Packages	OGC OAQPS OMS		OGC - (1) OAQPS - (3) OMS - (1) Regions - (2) <sup>a</sup>	
O	Develop Boilerplate and Checklists	OAR OGC Regions	Ongoing as new requirements come due and policy changes	Ongoing effort - FTEs accounted for under developing guidance and regulations	
O	Use of uniform Boilerplate and Checklists	Regions	Ongoing	Regions - minimal <sup>a</sup>	

<sup>a</sup>The designated SIP Consistency Process facilitator would be responsible for ensuring that decisions regarding proposed Alternative Interpretations are properly documented in appropriated data bases that record policy decisions and distributed to all stakeholders via POSTMAN, etc. This process would be appropriate for Phase II of the Data system.

<sup>a</sup>At this point, it is difficult how much of an increase each Regional Counsel's office will need. Currently, the resources devoted to SIP review greatly vary from Region to Region. Under the revised system, the workgroup anticipates that more SIPs will be processed, even in those Regions where the ORC currently spends significant resources on SIP review, the ORC may determine that additional resources are needed once OGC no longer provides backup support due to a need to become more familiar with the substantive SIP issues.

<sup>a</sup>As of the time of this printing, OMS had not listed any FTE savings.

<sup>a</sup>In addition to FTE savings, eliminating standard HQ review of all SIPs will reduce the amount of time needed to process any one SIP package. Currently, the HQ review period for Table 1 and Table 2 packages is 40 days.

Com.	ACTION STEPS	RESPONSIBLE OFFICE	ELAPSED TIME IN DAYS	CHANGE IN FTES/ FY	\$(1000)
O	Develop Clear and timely guidance and regulations	OMS OAQPS OGC			
O	Eliminate Unnecessary Information Transfer to FR Office	Regions OAR	On going	Savings once process developed Regions - (2)	
O	Develop Presubmittal Review Process	Regions	Ongoing	Est. Savings once system established Regions (5)	
D	Maintaining the Data	Regional Offices	ongoing every week	.5	
O	Continue Limited HQ Review - When consistency process invoked or when negative comments are received.	OGC OMS OAQPS Regions	14 - 30 days when invoked	OGC - .2 OAQPS - .2 OMS - .1 Reg. - .2	
O	Provide Regional Access to Information/new Data System				
D	Maintaining the Distributed System	Regional/HQs Steering Team	As needed for changes	Minimal	\$15 on an as needed work assignment basis.
C	Evaluate the effectiveness of the SIP Consistency Tier I Process & recommend necessary changes and revisions to enhance the Process.	SIP Consistency Committee	1 year from official SIP Regional Office delegation.	Minimal <sup>10</sup>	

<sup>10</sup>OAR, in conjunction with OGC and the Regions, has currently drafted boilerplate for numerous types of submittals. This boilerplate is used to varying degrees by the Regional offices. The FTE saving achieved through this recommendation will vary from Region to Region, depending on whether boilerplate previously existed for the types of SIPs being processed and whether the Region utilized existing boilerplate.

<sup>10</sup>No new resource needs but resources necessary for efforts expended by a cadre of existing Consistency Committee standing membership to conduct evaluation.

Com.	ACTION STEPS	RESPONSIBLE OFFICE	ELAPSED TIME IN DAYS	CHANGE IN FTES/ FY	\$(1000)
Savings from existing systems					
D	HQs requests for SIP info from Regions	Regions/HQs	Ongoing	(.5)	no cost
D	Maintaining existing systems	Regions/HQs	Ongoing	(1.5)	\$30 per FY for work assignments
Actions that should occur whether or not the SIP processing changes go into effect.					
O	Revise Pre-1985 IBR Language	Regions	1 yr/state	Regions - .33/state	
O	Publish the SIP for 110(h)	Regions		Regions - 2.5	
O	Review Other Portions of the CFR Part 51	Regions	1 yr/state	Regions - .25/state	